

COUNCIL OF STATE DEBATES

MONDAY, 15th NOVEMBER, 1937

Vol. II—No. 11

OFFICIAL REPORT



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COUNCIL OF STATE.

Monday, 15th November, 1937.

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Honourable the President in the Chair.

MEMBERS SWORN :

- The Honourable Sir Nripendra Sircar (Law Member).
 - The Honourable Raja Devaki Nandan Prasad Singh (Bihar : Nominated Non-Official).
 - The Honourable Rai Bahadur Satyendra Kumar Das (Bengal : Nominated Non-Official).
 - The Honourable Mr. John Carson Nixon (Finance Secretary).
 - The Honourable Mr. John Bartley (Government of India ; Nominated Official).
 - The Honourable Mr. John Anderson Taorne (Government of India : Nominated Official).
 - The Honourable Mr. Muhammad Saleh Akbar Hydari (Government of India : Nominated Official).
-

DEATH OF MR. RAMSAY MACDONALD.

THE HONOURABLE THE PRESIDENT: Leader of the House and Honourable Members, before we proceed with our work this morning I rise to refer to the sad and untimely death of one of England's great statesmen Mr. Ramsay MacDonal. You must have all heard with profound sorrow and grief the termination of one of the most distinguished and self-made careers in the annals of British history. In Mr. Ramsay MacDonal's death both England and India have sustained irreparable and heavy loss. He rose from a very humble position and amid bleak poverty became thrice the Prime Minister of Britain and without the advantages of rank, wealth or influence he attained great eminence and respect of all political parties. His meteoric rise was due to his own untiring industry, his personal efforts and rigid determination. He with the assistance and co-operation of three or four politicians was responsible for the creation, development and establishment of the Labour Party which has played so conspicuous a part in the recent political history of England. He was a great personality possessed of natural gifts, high and lofty ideals, simplicity of character and kindliness of heart. He was a great leader, a profound statesman and one of the most remarkable men whom British modern democracy has produced. To us in India the deceased had a special claim to our gratitude. He always took a keen, abiding and sincere interest in the welfare of this country and in the rise, progress and development of its people. He visited most of the important countries of the Empire and came out to India in 1913 and 1914 as a member of the Royal Commission

on Public Services. In that capacity he distinguished himself by his courageous conduct and display of fair play during the proceedings of that Commission and we Indians remember with appreciation and gratitude his constant and zealous controversy with his colleagues for the employment of the sons of India in large numbers in the service of their country. To Indians who visited England he was ever accessible and lent his valuable assistance and advice both when he was the leader of the Labour Party and also when he held the Premier's exalted office. From influential and responsible politicians who visited England he always attempted to learn something about this great country and to obtain the latest information about the administration, progress and welfare of its people. Those who were present at the several Round Table Conferences and especially at the meetings of the Federal Structure Committee will testify to the great devotion, ability, earnestness and impartiality with which he took part in the proceedings of those Conferences and the encouragement and support which he gave to the representatives of India who were invited there and who were pleading the cause of India, and I can bear a personal testimony as a member of that Conference to his unflinching interest in the proceedings of the Conference and regard and deep concern for the people of this country. His sad and untimely death has deprived India of a personal friend and a sympathetic admirer of the Indian nation. He will be remembered long in this country as a statesman who genuinely identified himself with the cause and welfare of her people. To his sorrowing and bereaved family we respectfully extend our deepest sympathy and condolence, and I propose to send on behalf of the Members of the Council of State an expression of our sympathy to his family through his son Mr. Malcolm MacDonald, His Majesty's Secretary for the Dominions.

QUESTIONS AND ANSWERS.

NOMINATION OF MUSLIMS TO THE I.C.S. IN 1937.

285. THE HONOURABLE MR. HOSSAIN IMAM: Will Government be pleased to state:

(a) Whether the number of Muslims to be appointed to the I.C.S. as the result of the Delhi Examination of 1937 was announced to be eight?

(b) Whether only six Muslims actually were appointed as the result of the said Examination and, if so, why?

(c) Whether nomination of Muslim candidates this year was not made strictly in order of merit and, if so, why?

THE HONOURABLE MR. J. A. THORNE: (a) and (b). During the recruitment year 1936-37, eight vacancies were reserved for the nomination of Muhammadan candidates with the stipulation that if any Muhammadan candidate was successful at the Delhi examination, the number of nominations would be correspondingly reduced. One Muslim was successful at the open competition held at Delhi in January last, and seven were nominated, six from among those who sat at that examination and one from those who had sat at the 1936 London examination.

(c) Nominations to the I.C.S. are made on the recommendations of the Federal Public Service Commission in accordance with the I.C.S. (Nomination) Rules. The Rules do not require that candidates should be nominated in strict order of marks.

THE HONOURABLE MR. HOSSAIN IMAM : Does the rule provide that unrepresented provinces will get representation ?

THE HONOURABLE MR. J. A. THORNE : No, Sir.

THE HONOURABLE MR. HOSSAIN IMAM : What is the rule ? If not the order of merit nor the residence, then what is the criterion of selection ?

THE HONOURABLE MR. J. A. THORNE : I have the rules here, Sir, but it is not I think necessary for me to read out all relevant rules.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Honourable Member lay it on the table ?

THE HONOURABLE MR. J. A. THORNE : Yes, Sir.

THE HONOURABLE MR. P. N. SAPRU : Are unrepresented districts and tehsils also to be provided for in the nominations ? (Laughter.)

NOTIFICATION.

ESTABLISHMENTS.

Simla, the 17th August, 1937.

No. F. 35/3/37.—The following Rules which have been made by the Secretary of State for India to regulate appointment to the Indian Civil Service by nomination are published for general information :

1. These Rules may be called the Indian Civil Service (Nomination) Rules.
2. Every candidate for appointment by nomination to the Indian Civil Service must be a male and either—
 - (a) a British subject of Indian domicile or of European or Indian descent domiciled in Burma whose father (if alive) is a British subject or a subject of a State in India, or (if dead) was at the time of his death either a British subject or a subject of a State in India or a person in the permanent service of the Crown or a person who had retired from that Service; or
 - (b) a ruler or a subject of a State in India in respect of whom a declaration has been made under Section 262 (3) of the Government of India Act, 1935.

Provided that in the case of a male British subject the requirements of this rule may be waived by the Secretary of State if he is satisfied that their observance would occasion exceptional hardship and the candidate is so closely connected by ancestry and upbringing with His Majesty's dominions as to justify special treatment.

3. Subject to the proviso to Rule 8 of these Rules, a candidate must have attained the age of 21 and must not have attained the age of 24 on the 1st day of January in the year in which the selection is made by the Federal Public Service Commission.

4. A candidate must be free from disease, constitutional affection or bodily infirmity unfitting him, or likely to unfit him, for the Indian Civil Service.

5. A candidate must satisfy the Governor-General in Council that he is in all respects suitable for employment in the Indian Civil Service.

6. A candidate must hold a degree of a University approved by the Governor-General in Council* or the Senior Diploma of the Mayo College, Ajmer. The degree held by a candidate must be a degree in arts, science, or letters, and a degree held in a professional or vocational subject will not be accepted. Any question whether a degree held by a candidate is of a nature qualifying him for nomination to the Indian Civil Service shall be decided by the Federal Public Service Commission, whose decision shall be final.

In exceptional cases the Federal Public Service Commission may on the recommendation of a local Government treat as a qualified candidate a candidate who, though not possessing any of the foregoing qualifications, has passed examinations conducted by other institutions of a standard which, in the opinion of the Federal Public Service Commission, justifies his nomination.

7. The Governor-General in Council shall call on the Federal Public Service Commission to recommend such number of candidates as he may direct, selected with regard to the community to which they belong or to such other considerations as he may prescribe.

8. The Federal Public Service Commission shall make their recommendations under Rule 7 primarily from the list of candidates who sat at the annual competitive examination held in India for the Indian Civil Service in the year in which the selection is made.

Provided always that the Federal Public Service Commission may include among the persons to be primarily considered any candidate who has sat at the annual competitive examination held in London for the Indian Civil Service in the year preceding the year in which the selection is made and who, in their opinion, is exceptionally suitable, and that for such candidates the age restriction laid down in Rule 3 shall not apply.

The Federal Public Service Commission may, however, if they consider it necessary, call for fresh names in such numbers and from such Local Governments as the Governor-General in Council may direct.

The Federal Public Service Commission shall recommend from the candidates whom they consider suitable the number directed under Rule 7 in order of preference.

9. The Governor-General in Council shall forward to the Secretary of State for India the recommendations made by the Federal Public Service Commission and shall propose candidates for appointment.

10. Candidates accepted for appointment will be required to proceed to, and remain in, the United Kingdom on probation for such period and in such manner as is prescribed by the Regulations made by the Secretary of State for India for the training in the United Kingdom and the further examination of probationers for the Indian Civil Service.

11. Any attempt on the part of a candidate to enlist support for his application through persons of influence will disqualify him for appointment. Spontaneous recommendations from persons who are not themselves acquainted with the candidate's work at school or at the university or otherwise will be disregarded.

J. A. THORNE,

Secretary to the Government of India.

*The following Universities have been approved by the Governor-General in Council, *etc.* :—

Indian Universities.

Any University incorporated by an Act of the Central or of a Provincial Legislature in India.
The Mysore University.
The Osmania University.
The Rangoon University.

English and Welsh Universities.

The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Sheffield and Wales.

Scottish Universities.

The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews.

Irish Universities.

The University of Dublin (Trinity College), The Queen's University of Belfast.

PROVINCIAL REPRESENTATION IN MAKING NOMINATIONS TO THE I.C.S.

286. THE HONOURABLE MR. HOSSAIN IMAM: Will Government be pleased to state:

(a) Whether they take into consideration provincial representation at the time of making nominations to the I.C.S. provided candidates from provinces concerned come within the qualifying list prepared by the Public Service Commission?

(b) Whether nominations are made strictly in order of merit on the result of the Delhi I.C.S. Examination? Has Government considered the advisability of considering the claims of Muslim candidates from the Eastern Provinces who come within the qualifying list?

THE HONOURABLE MR. J. A. THORNE: (a) No. The Rules do not require provincial considerations to be taken into account in selecting candidates for nomination.

(b) I would refer the Honourable Member to part (c) of the reply which I have just given. In view of the reply to part (a) of this question, the second part of part (b) does not arise.

NUMBER AND NAMES OF OFFICERS IN THE GOVERNMENT OF INDIA SECRETARIAT WHO HAVE BEEN ALLOWED EXTENSION OF SERVICE.

287. THE HONOURABLE MR. HOSSAIN IMAM: Will Government please state:

(a) The number and names of officers both of the superior and inferior establishments in the Government of India Secretariat who have been allowed extension of service after attaining the superannuation age of 55, during the last five years?

(b) The present age of those in service?

THE HONOURABLE MR. J. A. THORNE: As regards ministerial servants I would invite the Honourable Member's attention to clause (b) of Fundamental Rule 56 which lays down that ministerial servants may be required to retire at the age of 55 years, but should ordinarily be retained in service up to the age of 60 years. In their case continuation in service up to the age of 60 years does not constitute an extension of service. I am making enquiries to ascertain the number of gazetted officers to whom an extension of service has been granted after the age of 55 during the last five years, and the present ages of those officers now in service.

THE HONOURABLE MR. HOSSAIN IMAM: Have the Government considered the advisability of changing the rule in view of the unemployment in India?

THE HONOURABLE MR. J. A. THORNE: I do not think that arises strictly from the question.

THE HONOURABLE THE PRESIDENT: I quite agree with you.

NOMINATION OF A MUSLIM FROM BENGAL AND ASSAM TO THE I.C.S.

288. THE HONOURABLE MR. HOSSAIN IMAM : Has no Muslim from Bengal and Assam been nominated to the I.C.S. during the last 12 years ?

THE HONOURABLE MR. J. A. THORNE : One Muslim from Bengal was nominated to the I.C.S. in 1930.

THE HONOURABLE MR. HOSSAIN IMAM : And none from Assam ?

THE HONOURABLE MR. J. A. THORNE : None.

NUMBER AND RESULTS OF CANDIDATES THAT APPEARED AT THE I.C.S. EXAMINATION HELD IN DELHI IN JANUARY, 1937.

289. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state the number of candidates, their names and marks secured by each candidate at the last Delhi Examination for the I.C.S. ?

THE HONOURABLE MR. J. A. THORNE : I lay the printed results* of the examination on the table.

LEGISLATION TO PREVENT THE *Phooka* SYSTEM OF MILKING.

290. THE HONOURABLE MR. G. S. MOTILAL : Will Government be pleased to state whether they propose to introduce legislation to prevent the evil of *phooka* process of milking ?

THE HONOURABLE MR. J. A. THORNE : The practice is an offence punishable under section 4 of the Prevention of Cruelty to Animals Act, 1890. The question of amending the provision so as to make it more effective is under consideration.

THE HONOURABLE MR. HOSSAIN IMAM : Has any legislation been passed in the provinces on this subject ?

THE HONOURABLE MR. J. A. THORNE : Yes, Sir.

THE HONOURABLE MR. HOSSAIN IMAM : Where ?

THE HONOURABLE MR. J. A. THORNE : I know that there is an Act in Bengal. I am not certain about other provinces.

CONTEMPLATED ESTABLISHMENT OF BRITISH FILM STUDIOS AND CINEMAS IN INDIA.

291. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Has the British film industry under contemplation a scheme for the establishment of British film studios and cinemas in India, subsidised by the British Government ?

(b) Has an American concern constructed one theatre in Calcutta and is it putting up another in Bombay ?

(c) What steps do Government propose to take to protect the Indian film industry from the contemplated invasion of foreign industry ?

* Not printed in these Debates.

THE HONOURABLE MR. H. DOW : (a) Government have no information beyond the press reports on which the Honourable Member's question is presumably based.

(b) Yes.

(c) Government are not aware of any contemplated invasion.

BOOK ENTITLED *As a Man's Hand*.

292. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Has a book called *As a Man's Hand* written by one Miss D. H. Southgate, recently been published in England by Methuens publishers, which contains false and slanderous remarks against some social Indian customs, and is mostly full of false and ugly things about India? Have Government banned this book or taken any steps with regard to it?

THE HONOURABLE MR. J. A. THORNE : Government examined the book recently and decided that it does not call for any action.

KEEPING OF COMPLAINT BOOKS BY RAILWAYS.

293. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Will Government state whether complaint books for recording complaints of incivility and discourtesy by Railway staff to passengers are kept at all stations on the Railways or only at a few, and whether notices are prominently exhibited at the stations of the existence of such complaint books for recording cases of complaints?

(b) If the complaint books are kept only at a few stations, will Government state at what stations on the E. I. R., B. and N. W. R. and R. and K. R. such complaint books are kept?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) I would refer the Honourable Member to the reply given in the Legislative Assembly to Professor N. G. Ranga's question No. 318 on the 12th September, 1935.

(b) I am placing on the table a statement relating to the B. and N. W. R. and R. and K. R. As regards the E. I. R., the particulars required are given in paragraph 10 on page 106 of that Railway's Time Table and Guide.

Stations at which complaint books are maintained.

B. and N. W. R.

Gorakhpur.	Kishanpur.	Muzaffarpur.
Sonepore.	Muktapur.	Turki.
Barauni Junction.	Samastipur.	Kurhani.
Darbhanga.	Pusa Road.	Goraul.
Laheria Sarai.	Dholi.	Bhagwanpur.
Haiya Ghat.	Silout.	Sarai.

R. and K. R.

Lucknow Junction.	Mailani.	Bareilly City.
Lucknow City.	Pillbhit.	Kathgodam.
Sitapur.	Bhojepura.	Kashipur.

DISCOVERY OF CERTAIN IMAGES NEAR THE PURANA QILA, NEW DELHI.

294. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Have the recent digging operations in front of the main entrance of the Old Fort in Delhi resulted in the find of four images, those of Lord Buddha, Lord Krishna, Sri Ramchandra and Hanumanjee? What, if any, is the historical significance of these finds in that particular place; and where are the images intended to be kept?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : In the course of levelling operations in connection with the anti-malarial scheme conducted by the Executive Engineer, Special Division, Central Public Works Department, three architectural pieces were found in the area to the north of the west gate of the Purana Qila. Of these, one is a piece of marble frieze divided into seven compartments, the central one of which shows a nude figure, probably Jina. Another is a fragment of the left jamb of a door which shows several figures connected with the Vaishnavite cult. The third piece is a mutilated small fragment. The pieces have been removed to the Delhi Museum of Archaeology. No historical significance is attached to these finds, which belong to the late mediæval age.

OVERBRIDGE AT LAKHIMPUR-KHERI STATION, R. AND K. R.

295. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Is there no overbridge at Lakhimpur-Kheri railway station (R. and K. R.)?

(b) Were three or four persons run over and killed or seriously injured while crossing the railway line at Lakhimpur-Kheri station during the last four or five months?

(c) Does the town at Lakhimpur-Kheri extend on both sides of the railway station; and do Government propose to take necessary steps to have an overbridge put up at that station?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) to (c). Government have no information.

Their policy is to leave to the discretion of Railway Administrations such matters as the provision of overbridges where circumstances justify them. The matter is, therefore, one which can most suitably be referred to the Agent of the Railway concerned through the Local Advisory Committee.

ALLEGED REFUSAL TO CERTAIN INDIANS IN KENYA OF PASSPORTS TO ENGLAND.

296. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Have certain Indians in Kenya been refused passports to England on the ground that they are "illiterate", although they are literate in Indian languages, but do not know any European language? Do Government propose to enquire into the facts of such cases, and to take proper steps to remove this grievance of the Indians?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Government have no information. If the Honourable Member will let me know any facts that may have come to his knowledge I shall be glad to consider whether any action by the Government of India is called for.

BOOKS ENTITLED *World Revolution, The White Sahib in India and Africa and World Politics.*

297. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state why the books *World Revolution* by Mr. C. L. R. James, *The White Sahibs in India* by Mr. Reginald Reynolds, and *Africa and World Politics* by Mr. George Padmore, have been banned in India? Are any of these books banned anywhere else; and will Government point out the objectionable portions, if any, in these publications?

THE HONOURABLE MR. J. A. THORNE : The importation into British India of the first two books has been prohibited, the first because it advocates communism and revolution and the second because its aim is clearly to bring the Government in India into contempt. The entry of the third book into India has not been prohibited. Government are unaware whether or not these books are banned in other countries.

INDIANS IN SHANGHAI, ETC.

298. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government make a statement giving approximately the number of Indians in Shanghai, and other theatres of war in China, and the number of casualties among them, together with the losses sustained by them in the war, and the steps taken by the authorities for their protection and evacuation?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : With regard to the first part of the question the Honourable Member's attention is invited to the reply given by me in this House on the 5th October, 1937 to question No. 231 of the Honourable Mr. G. S. Motilal. No further casualties amongst Indians have been reported since that answer was given.

With regard to the protection and evacuation of Indians, (i) Government are confident that all that is possible is being done for their safety; and (ii) some Indians were evacuated to Hongkong from Shanghai early in the disturbances, and, as the Honourable Member is probably aware, about 900 were repatriated to India by the transport "Elephanta" which reached Calcutta on the 27th September last.

ATTACK ON A TRIBAL LORRY CONVOY ON 24TH SEPTEMBER, 1937.

299. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government make a statement regarding the looting of seven motor lorries, carrying goods, passengers and military rations, by the trans-frontier tribesmen on the Jandola-Wana road, in September last, giving the main details of the encounter and the steps taken by Government?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The Honourable Member is apparently referring to the attack on a tribal lorry convoy on the 24th September, 1937 in which one lorry was burnt. The offenders were reported to have been a gang of about 60 under one Ali Jan, the brother of Abdulla Jan, a hostile Zilliktel Wazir. A column from Wana engaged the gang and inflicted casualties.

ABDUCTION OF HINDUS FROM MULLAZAI VILLAGE, NORTH-WEST FRONTIER PROVINCE, BY BHITTANIS.

300. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: (a) Will Government state the circumstances under which village Mullazai in Tank sub-division, on the North-West Frontier, was raided by a tribal gang in the last week of September and a Hindu woman and a girl were abducted? What steps were taken and with what result?

(b) Will Government lay on the table a statement showing how many Hindus and Muhammedans, men, women and children, were abducted or otherwise molested, on the North-West Frontier, the circumstances under which the outrages took place, and the steps taken during the last 2 years?

THE HONOURABLE KUNWAR SIB JAGD'SH PRASAD: (a) A Hindu woman and a girl were kidnapped from Mullazai on the night of 27th/28th September, 1937 by a Bhattani gang. The cavalry at Mullazai turned out, and the gang was fired at and pursued by the police, but escaped with the Hindus. The captives were returned on the 16th October, 1937.

(b) The information is being obtained from the Government of the North-West Frontier Province and will be laid on the table in due course.

RADIO STATIONS AT DELHI, LAHORE AND LUCKNOW.

301. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will Government state when the new 10 K. W. Short-Wave Radio Station in Delhi will be in operation; and also the Radio Stations in Lahore and Lucknow?

THE HONOURABLE MR. A. G. CLOW: The Delhi 10 K. W. Short-Wave Station and the Lahore 5 K. W. Medium-Wave Station, are expected to start operation on the 15th of December, 1937 and the Lucknow 5 K. W. Medium-Wave Station in February 1938.

EXEMPTION OF SHOT-GUNS FROM LICENCE IN THE NORTH-WEST FRONTIER PROVINCE.

302. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will Government state if any reference was made to them by the North-West Frontier Government regarding the Resolution which was passed unanimously in the Frontier Assembly, recommending the exemption of shot-guns from licence for the purpose of defence? What decision has been arrived at in the matter?

THE HONOURABLE MR. J. A. THORNE: No reference on the subject has been received from the North-West Frontier Province Government.

CONFISCATION OF DIAMONDS BY THE COLLECTOR OF CUSTOMS, BOMBAY.

303. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: With reference to my question No. 87 of the 15th September last, regarding the confiscation of diamonds worth about Rs. 2,36,000 by the customs authorities in Bombay, will Government state whether the proceedings in connection with it have been completed? If so, will Government state the

nature and the main details of the proceedings, the name of the gentleman concerned and the action taken ?

THE HONOURABLE MR. J. C. NIXON : Proceedings have already been taken by the Collector of Customs under the Sea Customs Act, confiscating the goods and giving the owner option to pay, in lieu of confiscation, a fine of Rs. 2,00,000 and the duty leviable. No further proceedings are contemplated. The name of the gentleman concerned is Mr. Mansukhlal D. Kothari.

IMPROVEMENTS AT HARDWAR STATION, E. I. R.

304. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state whether improvements will be made at the Hardwar Railway Station (E. I. R.) and, if so, will they be completed by the time of the next year's Kumbh Mela ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Improvements are being made at Hardwar station, which it is expected will be ready for next year's Kumbh Mela.

STATUS OF THE SANTHAL PARGANAS IN BIHAR.

305. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Have Government received any representation from the Government of Bihar or any other source regarding the administrative status of the Santhal Parganas in that Province ? If so, what action, if any, is being taken on it ?

THE HONOURABLE MR. J. A. THORNE : No such representation has been received.

RE-SHUFFLING OF CERTAIN DEPARTMENTS AND PORTFOLIOS OF THE GOVERNMENT OF INDIA.

306. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state the names of the different departments or portfolios of the Government of India since the recent re-shuffling ?

THE HONOURABLE MR. J. A. THORNE : I lay on the table a statement showing the redistribution of work as recently effected. Departments not mentioned therein are not affected.

THE HONOURABLE MR. HOSSAIN IMAM : Does it also state the Secretarial arrangements—Secretaries who will be in charge of the different Departments ?

THE HONOURABLE MR. J. A. THORNE : My recollection is that it does not.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Honourable Member supply that list afterwards ?

THE HONOURABLE MR. J. A. THORNE : I have no objection, Sir, but I think the information has already been published.

Statement showing the redistribution of work as recently effected.

Hheads of Business.	Departments.
Broadcasting. Civil Aviation. Meteorology. Ports, Pilotage and Inland Navigation. Posts and Telegraphs (including Cables and Wireless). Roads.	} Department of Communications.
Industries (including Indian Exhibitions and industrial research), Stores, Patents and Designs.	
Copyright	Department of Education, Health and Lands.
Ecclesiastical Affairs	Defence Department.

The other heads of business dealt with in the late Department of Industries and Labour are now dealt with in the Department of Labour, which also deals with the Supervision of Railway Labour (statutory aspects), with labour in docks, and with official publications.

2. The Departments of Labour and Commerce are in the charge of the Honourable Sir Muhammad Zafrullah Khan; those of Communications and Railways are in the charge of the Honourable Sir Thomas Stewart.

ALLEGED FRAUD ON INDIANS BY BRITISH LOAN COMPANIES.

307. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Has the attention of Government been drawn to a message published in the *Hindustan Times* of the 28th August, 1937 entitled "Alleged fraud on Indians—High Commissioner's Warnings", and will Government state the names of the firms or individuals in London who are implicated in the fraud? Who are the persons who have been victimised, and to what extent?

(b) What steps have Government taken, or do they propose to take to broadcast a public warning and to bring the culprits to book?

THE HONOURABLE MR. H. DOW: (a) The reply to the first portion is in the affirmative. As regards the latter portion, Government are unable to furnish the required information.

(b) A notice was published in the *Indian Trade Journal* of the 26th August, 1937 for the information and guidance of all concerned, and the action taken by Government is the source of the information in the Indian press. As regards the latter portion of this part of the question, it is for the individuals concerned in India to take the initiative in the matter.

RESULT OF EXTENSION OF PROVISIONS OF SECTION 168 OF THE SEA CUSTOMS ACT TO THE LAND CUSTOMS ACT.

308. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: (a) Will Government state what result has been achieved by the application of certain provisions of the Sea Customs Act about a year back to the Pondicherry land custom cordon with a view to check contraband goods?

(b) Were motor cars seized when attempting to smuggle such goods?

(c) Will Government be pleased to make a statement regarding the anti-smuggling arrangement and the financial results so far achieved with special reference to diamond smuggling ?

THE HONOURABLE MR. J. C. NIXON : (a) The reference presumably is to section 168 of the Sea Customs Act the provisions of which have lately been extended to the Land Customs Act. The Government are not in a position to make a general statement in the matter, but from the reports so far received they are satisfied that the application of the section in certain recent cases has had a salutary effect.

(b) Yes.

(c) Besides greatly strengthening the customs cordon round Pondicherry and Karikal, some of the other principal measures taken by Government to prevent smuggling are the posting of a special detective staff to watch the movement of smugglers, the creation of a body of coast-guards to patrol the coast north and south of both the Settlements and the employment of launches equipped with searchlights and signalling apparatus to search the sea by day and night for smuggling craft. Steps are also being taken to erect an impenetrable barbed wire barrier on the more open parts of the frontiers. To protect the customs staff against the danger of attack by numerically stronger bodies of smugglers armed police have been stationed at strategic points. The customs receipts at Madras and the outports in the Madras Presidency during the first six months of 1937-38 show a marked increase over those for the corresponding period of the two preceding years. Government have reason to believe that this improvement in revenue is due partly to the pressure that has been brought to bear against smuggling over the land frontiers. During the past year, diamonds worth about Rs. 10,000 have been seized in the process of being smuggled from Pondicherry.

LEGISLATION TO PREVENT THE *Phooka* SYSTEM OF MILKING.

309. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Do Government propose to take necessary steps, legislative or otherwise, to stop the cruel and inhuman practice of *Phooka* on cows ? If so, what steps ?

THE HONOURABLE MR. J. A. THORNE : I invite attention to the answer I have given to question No. 290.

DISCOVERY OF A RELIC CASKET IN THE NORTH-WEST FRONTIER PROVINCE.

310. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Has a relic casket inlaid with precious stones, with inscriptions in the Kharoshthi script, recently been discovered in the North-West Frontier Province and made over to the Archaeological Department ? If so, will Government state the main details of the find, indicating its historical importance, if any, and the place where it has been placed ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The attention of the Honourable Member is invited to a press note on the subject, a copy of which is laid on the table.

Press Note giving details of a relic casket inlaid with precious stones and with inscriptions in the Kharoshthi script, discovered in the North-West Frontier Province.

THE DAILY NEWS, NAGPUR.

Thursday, September 30, 1937.

A RELIC CASKET.

Inscriptions in Kharoshthi Script.

Recent Discovery.

Simla, September 21.

A Press note says :—

The discovery of a relic casket with inscriptions in the Kharoshthi script of outstanding importance is reported by the Director General of Archaeology. The provenance of the inscription is reported to be 'Shinkot' in Bajaur territory outside North-West Frontier Province, where some tribal people while digging the foundations of a new fort chanced upon a steatite casket said to encase a silver casket, which in turn contained a gold reliquary inlaid with precious stones and some ashes with which some contemporary coins must undoubtedly have been deposited. The more precious parts of the find as also the relics are no longer traceable, but the stone casket with parts of the broken lid, both of which had inscriptions incised on them, were recovered through the efforts of Mian Afzal Shah, s/o Khan Bahadur Mian Raheem Shah, C.I.E., of Ziarat Kaka Sahib in the Peshawar District. It is to the diligence and public spirit of this gentleman that the Archaeological Department owes the recovery of this important relic which is the oldest of its kind ever recovered from the North-West Frontier Province. The inscription is engraved in shallow letters on the bottom of the casket in a continuous spiral line and on the top and bottom of the lid. It records the enshrinement of the relics of Buddha by one Vijayamitra (who may have been a petty dignitary) in the time of Maharaja Menander, the well known Greek King of the Punjab and Afghanistan, the first of the alien rulers to adopt Buddhism, whose questions are recorded in the Pali Buddhist scriptures. The date is given as the 25th day of the month of Vaisakha in the fifth year of the King who must have lived about 150 B. C. No Kharoshthi record of the time of any of the Indo-Greek Kings has yet been recovered although silver and copper coins particularly of Menander are found in plenty in the Kabul Valley, all over the Punjab and even upto Kathiawar. The name of the writer of the record has been scribbled at the bottom of the casket as one Vikila. Through the generosity of Mian Afzal Shah, the casket has been presented to the Archaeological Section, Indian Museum, Calcutta. Mr. N. G. Majumdar, Superintendent, Archaeological Section, will publish the inscription in the *Epigraphia Indica*, the quarterly journal issued by the Department which is devoted to epigraphical research.

FRANCHISE RIGHTS OF NATIVES AND INDIANS IN SOUTH AFRICA.

311. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state what degree of franchise has been granted to natives of South Africa, but has been denied to Indians there? What steps have been taken by Government to redress the grievances of Indians in this respect?

THE HONOURABLE KUNWAR SIE JAGDISH PRASAD : The Honourable Member presumably has in mind Act No. 12 of 1936 of the Union of South Africa which, *inter alia*, provides for the representation of South African natives in the Union Parliament exclusively by Europeans on a communal basis. This legislation was exclusively limited to natives and did not deal with Indians. The question of the Indian franchise will be taken up when a suitable opportunity offers.

BOOK ENTITLED *After Mother India*.

312. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Has the attention of Government been drawn to the following passage in a

book called *After Mother India*, by one Harry H. Field (printed by Jonathan Cape, Bedford 30 Square, London) :

" All who know anything of India are aware, of course, of the prime evils of Hinduism, of the horrors of the child marriage system, of the universality of sexual vice in its most extravagant forms, of the monstrously absurd brutalities of the caste system, of the filthy personal habits of even the most highly educated classes—which, like the degradation of Hindu women, are unequalled even amongst the most primitive African or Australian savages—of the universal cruelty to animals, and of the equally universal prevalence of laziness, untruthfulness, cowardice and personal corruption " ?

(b) Is this book banned in India ? If not, why not ?

THE HONOURABLE MR. J. A. THORNE : (a) and (b). Government have not hitherto had occasion to examine this book but they have now obtained a copy and are considering whether it calls for any action.

DEATH OF TWO GIRLS RUN OVER BY 6-DOWN POMBAY MAIL AT MANKAUR STATION, E. I. R.

313. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Has the attention of Government been drawn to a published report (*vide the Leader*, dated the 15th October, 1937, page 7) in which it is stated that two girls of about 12 years of age were run over and killed at Mankaur railway station, near Burdwan, by the 6-Down Bombay Mail, on the morning of the 25th September last ? What are the facts of the case, and has any enquiry been made into this matter ?

(b) Has the driver of the train been taken to task for not stopping the train in time to save two human lives ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) Yes. This is not a case which, under the rules, is required to be reported to the Railway Board. I have, however, called for a report from the Agent, E. I. Railway.

(b) The question of the driver's responsibility will be considered when I receive the report called for.

PROJECTED RAILWAY BRIDGE OVER THE BRAHMAPUTRA RIVER BETWEEN AMINGAON AND GAUHATI, E. B. R.

314. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state whether it is proposed to build a railway bridge across the Brahmaputra, between Amingaon and Gauhati (E. B. R.) ? If so, when is it likely to be started, when will it be completed, and what will be the approximate cost of the bridge ?

THE HONOURABLE SIR GUTHRIE RUSSELL : At present a survey of this projected bridge is being made. Till the results of this survey have been examined, no further steps can be taken.

PROPOSAL TO CONTROL THE ISSUE OF VISITORS' PASSES TO BOARD PASSENGER STEAMERS IN BOMBAY.

315. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Do the Customs authorities in Bombay propose to restrict visitors from boarding passenger vessels in order to prevent smuggling of contraband articles ?

If so, will Government state under what authority customs officials claim to issue passes to steamers which do not belong to them, but are owned by private shipping companies?

(b) Will Government be pleased to lay on the table a copy of rules or other instructions which are proposed to be issued in this connection?

(c) Do the proceeds of the passes issued by shipping companies to the public amount approximately to about Rs. 1,00,000 annually? Are these proceeds given away to local charities?

THE HONOURABLE MR. J. C. NIXON : (a) Yes, a proposal to control the issue of visitors' passes to board passenger steamers in the Port of Bombay is being considered by the Collector of Customs there.

(b) No rules or instructions have yet been finally formulated.

(c) Government have no information about the total amount of the proceeds of the passes issued by the shipping companies. Government are informed that the proceeds are given away to charities.

DIFFERENTIAL NOMENCLATURE BETWEEN THE PROVINCIAL AND CENTRAL M. L. AS.

316. **THE HONOURABLE RAJA YUVERAJ DATTA SINGH :** Will Government state whether they contemplate doing anything to distinguish local M. L. As. from Central M. L. As. in their nomenclature? If so, what?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD : No. Government do not anticipate any inconvenience from this temporary duplication.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What is the meaning of the word "temporary"? How long will it be continued?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD : My Honourable colleague the Law Member has already given an answer to that question in the Lower House. I cannot say when Federation is coming.

EXPULSION OF ELECTED INDIAN MEMBERS OF THE FIJI LEGISLATIVE COUNCIL.

317. **THE HONOURABLE RAJA YUVERAJ DATTA SINGH :** Has the Governor of Fiji asked three Indian elected members of the Fiji Legislative Council to vacate their seats, because they did not attend the first meeting of the Legislative Council on the 24th September last as a mark of disapproval of the Governor giving precedence to a nominated member? What are the facts of the case, and what steps have been taken by Government to safeguard the rights of Indian elected members and their constituencies in the Fiji Council?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD : The Government of India are informed that the Governor of Fiji did not ask the elected Indian members to vacate their seats. When they presented themselves for attendance His Excellency requested them not to take their seats until the oath had been administered to them. This could only be done after the Council had disposed of consideration of the minutes of the first meeting, a

matter upon which these members could not vote as they had not been present. The three members appear to have misunderstood the Governor's request and left the Council Chamber altogether. The misunderstanding has now been satisfactorily settled, and the members in question are taking their full part in the Council proceedings. In the circumstances, Government do not consider that any further action on their part is called for.

RETURNED EMIGRANTS AT MATIABRUJ AND BUDGE BUDGE.

318. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Have Government seen complaints made in the Press (*vide* Mr. C. F. Andrew's letter published in the *Amrita Bazar Patrika*, dated 21st October, 1937) regarding the sufferings and the sad plight of returned emigrants to Matiabruj and Budge Budge, near Calcutta ? What steps have been taken for alleviating their miseries, and towards finding suitable land in India for colonisation by them ?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD : The reply to the first part of the question is in the affirmative. So far as the Government of India are aware the bulk of these immigrants have been in Calcutta for many years. Gratuitous relief has been afforded to these emigrants in the past and, in 1933, an attempt was made by the Government of India at considerable trouble and expense to work out a colonisation scheme for them on the Bijaygarh estate in the United Provinces. The attempt was not successful. They would either not go to the estate or, if they were persuaded to go, they gave trouble to the estate authorities and many deserted.

INDO-BRITISH TRADE NEGOTIATIONS.

319. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government make a statement regarding the Indo-British trade negotiations and the stage which they have reached ? When are they likely to be concluded ; and will an opportunity be given to the Central Legislature to discuss the terms of agreement before they are finally adopted ?

THE HONOURABLE MR. H. DOW : The Honourable Member is referred to the Press Communique issued by Government on this subject on the 18th October, 1937, copies of which are in the Library. As regards the second part of the question, it is not possible at this stage to say when the negotiations will be concluded. With regard to the last part, the Honourable Member is referred to the replies given in the Legislative Assembly on the 29th September, 1937 to part (j) of Mr. Satyamurti's starred question No. 880 and its supplementaries.

RETURN TO INDIA OF MR. S. R. RANA.

320. THE HONOURABLE MR. B. N. BIYANI : (a) Has the attention of Government been drawn to the correspondence between Mr. S. R. Rana and Mr. P. M. Bapat published in *Mahratta* of Poona, dated 8th October ?

- (b) Is Mr. Rana prohibited from entering India ?
- (c) Will Government allow Mr. Rana to return to India ?
- (d) If not, why not ?

THE HONOURABLE MR. J. A. THORNE : (a) I have not seen the correspondence.

- (b) No.
- (c) and (d). Do not arise.

RETURN TO INDIA OF MAULVI OBEIDULLA SINDHI.

321. THE HONOURABLE MR. B. N. BIYANI : (a) Have Government seen the statement of Dr. Choitram in the *Hindustan Times*, dated 22nd September, 1937 in connection with the Sindhi patriot Maulvi Obeidulla in exile ?

(b) Is Maulvi Obeidulla now about 80 years old and has he been out of India for the last 20 years ?

(c) Do Government propose to allow Maulvi Obeidullah to return to India ?

(d) If not, do Government propose to enquire into this matter and to supply to this House the reasons for not allowing him to return to India ?

THE HONOURABLE MR. J. A. THORNE : (a) I have seen a copy of the statement.

(b) Maulvi Obeidulla is about 70 years of age and has been absent from India for about 22 years.

(c) and (d). He has never himself applied for facilities to return to India. The circumstances of his absence from India were explained in Mr. Maxwell's speech in this House on the 15th September last.

ALLEGED DISPUTE BETWEEN HIS EXCELLENCY THE GOVERNOR OF FIJI AND THE ELECTED INDIAN MEMBERS OF THE FIJI LEGISLATIVE COUNCIL.

322. THE HONOURABLE MR. B. N. BIYANI : (a) Has a dispute arisen between the elected Indian Members of the Fiji Council and the Governor of Fiji ?

(b) Has the Indian Association requested the Viceroy to intervene in the dispute ?

(c) Have the Government of India represented the matter to the Colonial Office ?

(d) If so, what was the result ?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD : (a) to (d). The answer to part (b) is in the affirmative. As regards the rest of the question the attention of the Honourable Member is invited to the reply which I have just given to the Honourable Raja Yuveraj Datta Singh's question No. 317.

ACCIDENT AT BIHTA STATION, E. I. R.

323. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Will Government state why the Judicial enquiry into the Bihta train disaster is being held in Allahabad and not near the scene of occurrence ?

(b) How many witnesses will be examined and from what places will they come ? What will be the amount of expenditure, if any, incurred in the examination of the witnesses ?

THE HONOURABLE SIB GUTHRIE RUSSELL : (a) The enquiry is being held at Allahabad to suit the convenience of the Honourable Mr. Justice Thom who is holding the enquiry. It is not necessary for the purpose of the enquiry that it should be held near the site of the occurrence.

(b) Government have no information, as the enquiry has not yet concluded.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Honourable the Chief Commissioner explain why two Counsels have been engaged, one on behalf of the Railway and one on behalf of the Government of India ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Counsel was engaged by the Government of India to represent the interests of the injured and the relatives of the killed.

THE HONOURABLE MR. HOSSAIN IMAM : May I ask what is meant by the Government of India ? Is it the Railway Department or any other Department ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I have not considered the question as to who will pay. I expect it will be the Railway Department.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is there any difference of opinion regarding the matter at issue between the representatives of Government on the one hand and the Railway on the other ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Sir, I do not think that is a proper question as the matter is *sub judice*.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : My Honourable friend asked why there were two separate lawyers, one engaged on behalf of the E. I. R. and the other on behalf of the Government of India. I asked my Honourable friend in that connection whether two Counsels had been appointed because there were two points of view to be represented, one that of the Government of India and the other that of the E. I. R.

THE HONOURABLE SIR GUTHRIE RUSSELL : I think that I can explain this by saying that the reason for the inquiry was that Government did not know what the real cause of the accident was.

CONGRATULATIONS TO RAI BAHADUR A. L. BANERJEE ON HIS APPOINTMENT AS ASSISTANT REGISTRAR IN THE FEDERAL COURT.

THE HONOURABLE THE PRESIDENT : Honourable Members, you would all expect me to refer today to the services of our Assistant Secretary Rai Bahadur A. L. Banerjee, who has left us this morning to occupy a more important and dignified appointment. After many years of meritorious service in the Legislative Department he was about to retire when he has been translated to occupy the post of Assistant Registrar in the Federal Court which is just about to be inaugurated. In this Council of State he has acted as Assistant Secretary for several years and has rendered very important and useful services to many Members of this Council, and though we are all very pleased to hear about his promotion we regret to part from him and we do so with a certain amount of sorrow. To me during the last five years that I have held the office of President of the Council of State he has been extremely useful and I am indebted to him for the many services he has rendered not only to me but to Honourable Members. On behalf of all of you I congratulate him on his new appointment and wish him success in his new office. (Applause.)

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, I lay on the table the information promised in reply to question No. 192 asked by the Honourable Mr. B. N. Biyani on the 28th September, 1937, question No. 211 asked by the Honourable Mr. Hossain Imam on the 2nd October, 1937 and question No. 270 asked by the Honourable Pandit Hirday Nath Kuneru on the 5th October, 1937.

CHARGING OF MAIL FARES BY THE G. I. P. R. ON PASSENGER RUNS.

192. (a) It is correct that No. 29 Down Express is a stopping train between Chalisgaon and Badnera and No. 30 Up Express between Bhusaval and Kalyan.

(b) Mail fare is charged by the above trains over the sections named.

(c) Yes.

(d) It has not been considered feasible to charge passenger fares over one portion of an Express train's run and mail fares over the remainder. I understand, however, that the Agent, Great Indian Peninsula Railway is reconsidering this matter.

EXPERIMENTAL DERAILMENT CARRIED OUT AT JAMALPUR, E. I. R.

211. (a) Yes on the 14th and 15th September, 1937.

(b) The expenditure incurred in laying and taking up the track, and for other items in connection with preparing the stage for the experimental derailment, amounted to Rs. 3,060. This amount includes a sum of Rs. 2,040 for the wages of existing staff.

The experiment was sanctioned by the Agent.

(c) The object of the experiment was to secure evidence in regard to certain point connected with Bihta accident which could not have been obtained otherwise. Any relevant information which has been obtained as a result of this experiment will be placed before the High Court Judge appointed to hold the enquiry.

(d) The clearing of the debris was performed by a 30 ton breakdown crane, and the staff used for clearing up debris in case of an accident were employed.

The estimated cost of clearing up the debris is approximately Rs. 1,000, from which may be deducted the cost that would have been incurred in shops if the four smashed vehicles had been cut up there; i.e., Rs. 500, leaving a balance of Rs. 440.

The following is a list of the stock involved in the experiment in the order in which the train was marshalled.

	Carriage No.	Type.	Year of construction.	Age.	Original cost.	Remarks.
				Yrs.		
These vehicles were smashed up.	440 CA	Engine and Tender	See below.			These vehicles have passed their economic life and have already been earmarked for replacement or abandonment.
	1864	Bogie III, Lugg. and Break.	1905	32	14,976	
	2225	Bogie III . . .	1907	30	14,872	
	2228	" III . . .	1907	30	14,872	
	2221	" III . . .	1907	30	14,872	
These vehicles were undamaged.	2226	" III . . .	1907	30	14,872	
	2066	" III, and P. O.	1906	31	15,776	
	2126	Ditto . . .	1906	31	15,051	
	2073	Bogie Luggage van	1906	31	14,232	
	2106	Bogie III . . .	1906	31	15,051	
	2071	Bogie Luggage van	1906	31	14,232	

Engine No. 440 CA was put on the line in May, 1898 and is therefore over 39 years old.

	Rs.
The original cost of the engine and Boiler was	38,799
ditto tender	10,358
	49,157

The life of these engines, according to the Depreciation Fund Rules, is 35 years. This engine is one of the 59 which are to be cut up without replacement.

	Years.
The average life of the above coaching stock	30·7
The average life of the first four vehicles smashed in the experiment	30·5
The life of a coaching vehicle (according to the Depreciation Fund Rules)	30

PRINCIPAL RAILWAY STATIONS WHERE PORTERS ARE ENGAGED BY RAILWAY AUTHORITIES AND WHERE OBTAINED THROUGH CONTRACTORS ON THE E.I.R., G.I.P.R. AND N.W.R.

270. East Indian Railway—

- (a) (i) The E. I. R. Administration does not engage porters (licensed coolies) directly.
- (ii) They are obtained through contractors at all principal stations on the line, (list attached).
- (b) A copy of the agreement which is entered into with the coolie contractors at stations is attached. This agreement indicates the terms of such contracts but clause 10 has since been eliminated and the contractors are paid for the labour they supply for railway purposes for handling parcels and packages, etc.

Great Indian Peninsula Railway—

- (a) (i) The G. I. P. R. Administration engages porters at all important stations with the exception of those shewn in (a) (ii).
- (ii) At Victoria Terminus, Agra Cantonment, Agra City and Gwalior porters are engaged through contractors.
- (b) Each contractor agrees :—
 - (i) to provide the prescribed number of coolies ;
 - (ii) to furnish each coolie with uniform clothing and a badge ;
 - (iii) not to allow any coolie to charge more than the prescribed rate ;
 - (iv) to provide coolies for transshipping contents of sick wagons *en route* whenever required by the Administration, and to charge for this service an agreed rate ;
 - (v) to render, free of charge, miscellaneous services at stations, such as handling parcels and luggage, cleaning the station building, platform, etc., when the coolies are not occupied in attending to passengers ;
 - (vi) to indemnify the railway administration and railway passengers against loss or damage respectively to parcels, luggage or passengers' belongings while being handled or carried by any of the contractor's coolies, and also against loss or damage caused to the administration or to passengers by any act, neglect or default on the part of the contractor or his coolies.
 - (vii) to indemnify the railway administration against any claim by or on behalf of his coolies under the Workmen's Compensation Act and the Fatal Accidents Act ;
 - (viii) to lodge a security deposit with the railway for due performance of his contractual obligations.

The contractors do not pay the railway administration any fee for the contract let to them, nor do they receive any payment from the administration.

North-Western Railway—

- (a) (i) At no station on the N. W. R. are such porters directly engaged by the administration. (ii) The only station on the N. W. R. where there is a contractor is in Kalka.

The system followed on the N. W. R. is to appoint Cooly Jemadars at large and important stations whose function it is to supply a fixed number of licensed porters to work on station platforms. The Cooly Jemadars are not paid by the Administration. At other stations where licensed porters are necessary they are appointed by the Station Masters, but are not railway employees. A complete list of stations where licensed porters are working will be found at paragraph 19, page 159, of the current Time and Fare Table (a copy of which is available in the library of the House).

(b) A copy of the contractor's agreement for Kalka station is attached (Annexure A).

As regards stations worked by Cooly Jemadars a copy of the license form in use is appended (Annexure B).

There is no agreement in the case of stations where the station master appoints licensed coolies.

List showing the names of Principal Stations where licensed coolies are obtained through Contractors.

Howrah.
 Bandel Jn.
 Burdwan.
 Sahibganj.
 Jamalpur.
 Ondal.
 Asansol.
 Sitarampur.
 Dhanbad.
 Gomoh.
 Baidyanathdham.
 Madhupur.
 Kiul Jn.
 Mokameh Ghat.
 Mokameh.
 Patna Jn.
 Dinapore.
 Moghalsarai.
 Gaya.
 Allahabad.
 Cawnpore Central.
 Tundla.
 Hathras Jn.
 Aligarh.
 Kaahi.
 Benares.
 Fyzabad.
 Partabgarh.
 Lucknow.
 Shahjahanpur.
 Bareilly.
 Moradabad.
 Lhaksar.

NOTE.—At stations Bandel Junction, Burdwan, Sahibganj, Jamalpur and Madhupur the contract is held by Station Masters.

EAST INDIAN RAILWAY.

License to supply Coolies to Passengers at Railway Station.

In consideration of the East Indian Railway having permitted me to supply Coolies for carrying passengers' luggages to and from Railway carriages at station, I..... do hereby agree and bind myself to the East Indian Railway to and under the following conditions :—

1. That I agree to supply and arrange the daily attendance at station of a minimum number of able bodied coolies so as to have sufficient number of coolies present at and about the time of arrival and departure of every passenger train on the station platforms both during the day and during the night under the supervision of at least one Overseer or Mate on each platform for the purpose of carrying passengers' luggages and belongings to and from the Railway's carriages.

2. That I shall at my own cost provide the Coolies and the Overseers and the Mates with Uniforms and distinctive badges of the pattern and cloth approved by the Divisional Superintendent of the East Indian Railway.

3. That I hold myself responsible for the good, orderly and proper conduct of the Coolies, the Overseers and the Mates while on their duties and for their behaviour towards the passengers while carrying their luggages and belongings and for their being properly and cleanly dressed in their Uniforms and badges while on their duties within the station premises.

4. That I shall be bound by the rules and orders issued by the Divisional Superintendent and by the Station Master at or his Assistants or by the platform Supervisors or by other Officers of the Railway regarding the hours of attendance of the Coolies, their conduct and regarding all other matters with respect to the proper performance of the work in which they may be or are employed and shall be responsible for the proper observance of the said rules and orders.

5. That the rate for carrying luggages and belongings of passengers from the Railway carriages to any part of the station premises or *vice versa* shall be charged according to the Schedule below and that I hold myself responsible to the Railway Administration against any of my Coolies charging any rate higher than the rate published in the Schedule below.

6. That I agree further that the Railway administration reserve to themselves the right of making alterations in the above Tariff rates and I agree that my Coolies shall charge at the altered rates from the time when such alterations are made.

7. That I shall not nor shall I let my Coolies interfere with passengers employing their private servants to carry their luggages to and from the Railway carriages.

8. That the license herein granted is not transferable and I shall not sub-let the same to any other person and shall remain personally liable and responsible for the proper observance of the terms and conditions of the same.

9. That I hereby agree to indemnify the Railway and any Railway passenger against any loss or damages sustained by the said Railway or by the said Railway passenger with respect to their parcels or packages, luggages and belongings while being handled or carried by any of the coolies supplied by me and to pay to the Railway administration or to the Railway passengers the amount of such loss.

10. That in consideration of the Railway administration granting me the above license I agree to supply free of charge a number of daily at all times to load and unload luggages and parcels in and from the trains and to carry them to and from the trains and the officers at the station. These men shall wear distinctive badges as approved of by the Railway while they are so engaged.

11. That I have deposited with the Treasurer of the East Indian Railway a sum of Rs. as Security for the proper observance of the terms and conditions of the license and of the orders issued by the Railway Officers from time to time, and for the good behaviour and proper conduct of my Coolies, Overseers and Mates.

12. That I agree that the Railway administration shall be entitled to indemnify themselves and to recover any loss or damage they may have sustained as recited in clause 11 of this license from the said amount of Security and I further agree that in all case where the question of indemnity arises the decision of the Chief Operating Superintendent of the Railway shall be final and sufficient to enable the Railway, to recover the necessary amount as above from my said Security.

13. That I further agree to indemnify the said East Indian Railway administration against all claims for compensation by or on behalf of any Coolies, Overseers and Mates employed by me in connection with the present contract for injury or death by an

accident under the Workmen's Compensation Act—Act VIII of 1923—and the said East Indian Railway administration shall be entitled to deduct from the said security or from any sum of money due and payable to me, the amount of compensation thus payable to or on account of any such Coolie, Overseer or Mate or paid by the said Railway administration on such account under the terms of section 12 of the said Act together with all and any costs incurred by them in such connection, and I further agree that the decision of the Railway administration with respect to the amount of such indemnity will be final.

14. That I further agree that on such deductions being made from the said Security I shall make good the said amount within 15 days from the date of such demand by the said Railway.

15. That I shall keep a register of attendance of all the Coolies supplied by me with the respective number of badges given to them with their hours of duty and the said register shall be open to inspection by the Officials of the Railway at any time.

16. That the Railway Administration reserve to themselves the right of terminating and withdrawing their license and of dispensing with my services for supplying Coolies at at any time they may consider it advisable to do so without assigning any reason or without any previous notice.

In witness whereof I sign these presents.

Date.....

Licensee.

Signed in the presence of

Witness.

Schedule of Tariff—

ANNEXURE ' A '.

An agreement made this sixteenth day of May 1937 between the Governor General of India in Council, hereinafter called the Railway Administration of one part and Fakir Chand son of Jahangiri Mall resident of Kalka (hereinafter called the Contractor) of the other part, whereby it is agreed as follows :—

1. That the said Contractor agrees to supply and arrange daily attendance at Kalka Railway Station of a minimum number of 100 able-bodied coolies (to be increased to 200 during the up and down Hill Moves) so as to have sufficient coolies at the time of arrival and departure of every passenger train on the station platforms under the supervision of at least two Jamadars for the purpose of carrying passengers' luggage and belongings to and from trains.

2. That the contractor shall supply coolies free of charge for transhipment of booked luggage at Kalka whenever required.

3. That the said Contractor hereby agrees to indemnify the Railway Administration for any loss, destruction or damage to or pilferage from any booked parcel or packages or any unbooked parcel or package being the property of a passenger caused by the misconduct of the coolies, and that he agrees to pay all claims met and litigation expenses incurred by the Railway Administration, that may arise due to the misconduct of his coolies.

4. That the said Contractor will also supply coolies for accidents and land slips necessitating transhipment of luggage on the K. S. Railway at Licensed coolies rates of wages if required.

5. That the said Contractor shall supply the Jamadars and the Coolies with uniforms and badges approved by the North Western Railway.

6. That the Contractor agrees to be responsible for the Coolies and Jamadars whilst performing their duties on the station platforms being properly dressed in their uniforms and badges and for their proper and orderly conduct while employed on the station premises.

7. That the Contractor agrees to be bound by the orders issued by the Divisional Superintendent, Delhi and by the Station Master regarding the hours of attendance of the Coolies, their conduct and all other matters regarding the proper performance of the work

in which they may be or are employed, and shall be responsible for the proper observance of the said orders by the Coolies.

8. That the rate for carrying luggage from the train to any part of the station premises and *vice versa* or from B. G. trains to N. G. trains and *vice versa*, would be 0-2-0 per load per trip payable by passengers concerned.

9. That the Railway reserve to themselves the right of making alterations in the above tariff rates on a month's notice to the Contractor.

10. That the Contractor and his Coolies shall not interfere with passengers who employ their private servants to carry their luggage to and from the Railway carriages.

11. That the Contractor shall not sublet this contract and shall be responsible for the proper conduct and good behaviour of his coolies.

12. That the Contractor shall supply once a week sufficient men to give the station a general cleaning and dusting as required.

13. That the Contractor shall deposit a sum of Rs. 300 with the Railway as a guarantee that adequate labour will be provided by him in accordance with the scale laid down above, and that in the event of his not fulfilling any part of his agreement to the satisfaction of the Divisional Superintendent, Delhi, it would be discretionary with him to forfeit the whole or any part of the abovementioned security.

14. That the Railway Administration reserve the right, without assigning any reason, to terminate this contract, which shall be terminable on 3 months' notice being given in writing by either party.

15. That the cost of the stamp duty upon this instrument shall be borne by the Contractor.

In witness whereof the parties to these presents have hereunto set and subscribed their hands and seals at the places and on the dates hereinafter mentioned respectively.

Signed and delivered on behalf of the
Governor General of India in Council
by A. C. Griffin Esquire.

Divisional Superintendent, Delhi, N.-W.
R., acting in the premises by or of the
Governor-General in Council at Delhi on
2nd June 1937.

(Sd.) A. C. GRIFFIN,

Divisional Superintendent, N.-W. R.

Signed and delivered by Faqir Chand at
Kalka, on 20th May 1937, in the
presence of—

Witnesses	}	(1) (Sd.) Munshi Lal, s/o Nanki Lal, D. A. G. Refreshment Room, Old Secretariat, Delhi.	}	Licensee.
		(2) Gulzari Lal, Clerk, D. S. Office, Delhi.		

(Sd.) FAQIR CHAND.

ANNEXURE B.

North-Western Railway.

Licence for the supply of coolies for the purpose of carrying passengers' luggage to and from the trains.

Permission is hereby given to.....son of.....resident of.....to supply and arrange for the daily attendance of a minimum number of.....able-bodied coolies at..... Railway Station on the following terms :—

1. He shall arrange to have sufficient number of coolies on the station platforms at the time of arrival and departure of every passenger train.

2. He shall not charge more than Rs. 2-0-0 per head per mensem from the coolies engaged by him.

3. The coolies shall always appear in clean uniform with proper badges as approved and supplied by the railway at their own cost.

4. He shall be responsible for the proper and orderly conduct of the coolies whilst performing their duties on the station platforms and premises and shall employ only such men whose character has been verified by the police.

5. The coolies must not interfere with passengers who employ their private servants carry their luggage.

6. The coolies employed by the licensee shall on no account demand or accept more than the authorised charge per trip as laid down by the Railway Administration.

7. He shall be paid for all railway work performed by his coolies at a rate to be fixed by the Railway Administration.

8. He shall deposit Rs. as security for the due and proper fulfilment of the terms and conditions of this licence.

9. He shall indemnify the Railway Administration against any loss, destruction or damage to or pilferage from, any package, parcel or passengers' luggage caused by the the carelessness, neglect or misconduct of the coolies in his employ and shall pay all claims met and litigation expenses, if any, incurred by the Railway Administration.

10. The licensee shall at all times indemnify the North Western Railway against all claims which may be made under the Workmen's Compensation Act, 1923, or any statutory modifications thereof or otherwise for or in respect of any damages or compensation payable in consequence of any accident or injury sustained by any cooly/servant or person in the employment of the licensee and engaged in the performance of this licence and shall take all risk of accidents or damage which may cause a failure of the performance of the licence arising out of such accident to such cooly or servant and shall be responsible for the sufficiency of all the means used by him for the fulfilment of the licence.

11. The divisional superintendent, at his own discretion and without assigning any reason or paying compensation on any account whatsoever, reserves to himself the right of withdrawing this licence at any time.

12. He shall not sub-let the whole or any part of this licence.

13. The cost of stamp duty on this licence shall be borne by the Railway Administration.

Dated 193

*Divisional Superintendent,
 North Western Railway*

I hereby agree to abide by the above terms.

Date 193

Jemadar.

Witness

Address

Signed by the abovenamed in my presence.

Dated 193

Station Master.

AGREEMENTS BETWEEN THE RESERVE BANK OF INDIA AND THE GOVERNMENT OF BOMBAY LAID ON THE TABLE.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary) : Sir, I lay on the table a copy of the Agreement between the Reserve Bank of India and the Government of Bombay.

Agreements between the Governor of Bombay and the Reserve Bank of India.

AN AGREEMENT made this twenty-eight day of July One thousand nine hundred and thirty-seven Between THE GOVERNOR OF BOMBAY of the one part and THE RESERVE BANK OF INDIA (hereinafter called "the Bank") of the other part WHEREAS the Bank was constituted and incorporated and is regulated by the Reserve Bank of India Act, 1934 (being Act No. II of 1934)—(which as adapted and modified pursuant to the Authority contained in section 293 of the Government of India Act, 1935, by an Order of His Majesty in Council dated the 18th day of March 1937 cited as the India and Burma (Burma Monetary Arrangements) Order, 1937, is hereinafter called "the Act") with and subject to the various powers, provisions and restrictions in and by the Act set forth and it was thereby *inter alia* particularly provided as follows, viz. :—

(1) by section 20 of the Act that the Bank should undertake to accept monies for account of Provincial Governments and to make payments up to the amount standing to the

credit of their accounts and to carry out their exchange, remittance and other banking operations including the management of the public debt and

(2) by section 21 (1) of the Act that Provincial Governments should entrust the Bank on such conditions as might be agreed upon with all their money, remittance, exchange and banking transactions in India and, in particular, should deposit free of interest all their cash balances with the Bank provided that nothing in that sub-section should prevent Provincial Governments from carrying on money transactions at places where the Bank has no branches or agencies and that Provincial Governments might hold at such places such balances as they may require and

(3) by section 21 (2) of the Act that Provincial Governments should entrust the Bank, on such conditions as might be agreed upon, with the management of the public debt and with the issue of any new loans.

NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED by and between the said parties hereto as follows that is to say :—

1. This Agreement shall be deemed to have come into force on the first day of April One thousand nine hundred and thirteenth.

2. The general banking business of the Government of Bombay (hereinafter referred to as "the Government") including the payment, receipt, collection and remittance of money on behalf of the Government shall be carried on and transacted by the Bank in accordance with and subject to the provisions of this Agreement and of the Act and with and subject to such orders and directions as may from time to time be given to the Bank by the Government through any Government officer or officers authorised by the Government in that behalf and at any of the offices, branches or agencies of the Bank for the time being in existence as may from time to time be so directed and for this purpose such accounts shall be kept in the books of the Bank and at such offices, branches or agencies of the Bank as shall be necessary or convenient or as the Government shall from time to time direct in the manner aforesaid.

3. The Government shall employ the Bank as the sole Banker in India of the Government which shall deposit or cause to be deposited with the Bank or allow the Bank to receive and hold as banker the whole of its cash balances at any places at which for the time being the Banks shall have an office, branch or agency and the Bank shall subject to such orders as may from time to time be given by the Government in the manner aforesaid receive and hold for the Government all such monies as may be or become payable to the Government or on its account and the Bank shall transact at its offices, branches and agencies for the time being existing respectively all such business for the Government regarding the receipt, collection payment and remittance of money and other matters, as is usually transacted by bankers for their customers. The Bank shall make the said monies at the said offices branches and agencies available for transfer to such places and at such times as the Government may direct. No interest shall be payable to the Government on any of the monies for the time being held by the Bank.

4. The management of the rupee public debt of the Government and the issue of new rupee loans by the Government and the performance of all the duties relating thereto respectively including the collection and payment of interest and to principal and the consolidation, division, conversion, cancellation and renewal of securities of the Government and the keeping of all registers, books and accounts and the conduct of all correspondence incidental thereto shall be transacted by the Bank at its offices in Bombay, Calcutta and Madras and at any of its offices, branches or agencies at which respectively the administration of any portion or portions of the public debt of the Government is for the time being conducted or interest thereon is for the time being payable and the Bank shall also keep and maintain such registers, books and accounts in respect of the said public debt as the Government may from time to time direct and shall audit all payments of such interest and act generally as agents in India for the Government in the management of the said public debt and shall conduct such agency subject to such orders and directions with regard to the general management thereof as may from time to time be given to the Bank by the Government.

5. The Bank shall not be entitled to any remuneration for the conduct of the ordinary banking business of the Government other than such advantage as may accrue to it from the holding of the Government cash balances free of obligation to pay interest thereon, and such balances shall be maintained at an amount not below such minimum as may be agreed upon between the Government and the Bank from time to time.

Provided that if the Government wishes to remit funds outside the area within its jurisdiction except as otherwise provided for in this Agreement the Bank shall be entitled to make a charge for such remittances at rates not exceeding those which the Bank charges

to Banks referred to as "scheduled banks" in section 42 of the Act subject to a minimum charge of four annas for each remittance.

6. The Bank shall make ways and means advances to the Government if so required at such rate of interest not exceeding bank rate as may be fixed by the Bank from time to time, provided that the total of such advances outstanding at any one time shall not exceed the amount of the minimum balance prescribed under clause 5 and any subsidiary agreement provided under the clause and provided further that the advances outstanding shall be fully paid off at intervals not exceeding three months.

7. The Government shall employ the Bank as its sole Agent for investments by Government either of Government funds or of funds managed by the Government and the Bank shall be entitled to charge commission for sales (but not for purchases or conversions) at the rate of one-sixteenth per cent. in addition to any further charges which the Bank may have to pay by way of brokerage, etc. The Bank shall collect interest and the maturity values of such investments on behalf of the Government without charge.

8. As remuneration to the Bank for the management of the public debt as aforesaid the Bank shall be entitled to charge to the Government half-yearly a commission at the rate of Rupees Two thousand per crore per annum on the amount of the public debt as aforesaid at the close of the half-year for which the charge is made. In calculating this charge the following amounts shall be excluded from the amount of public debt, viz. :—

- (a) The amounts of loans discharged outstanding after one year from the date of a notice of discharge ;
- (b) The amount of stock certificates for Rupees Fifty thousand and upwards held by the Government or by any officer or officers of the Government authorised in that behalf provided that such amount exceeds one crore.

And in addition to the charge of Rupees Two thousand per crore per annum the Bank shall be entitled to charge to the Government a fixed sum of Rupees Two thousand a year on account of the stock certificates referred to in head (b) of this clause and the Bank shall be also entitled to charge the public (but not the Government) all such fees and charges as are now or may here after from time to time be prescribed by the Governor General under the powers conferred upon him by the Indian Securities Act, 1920 (Act No. X of 1920), for duplicate securities and for the renewal, consolidation, division or otherwise of all Government Securities which the Bank issues.

Provided that loans not directly issued by the Government but issued under the guarantee of the Government shall not be included in the calculation for the purpose of this clause but shall be a matter for separate arrangement if the management of such loans is entrusted to the Bank.

9. The Bank shall maintain currency chests of its issue department at such places within the Province of Bombay as the Government may, with the previous sanction of the Central Government, prescribe and the Government shall provide sufficient accommodation for such chests as may be required for the deposit of notes or coin and shall be responsible to the Bank for the safe custody of the said chests, notes and coin. The Bank shall keep the said chests supplied with sufficient notes and coin to provide currency for the transactions of the Government and reasonable remittance facilities to the public at the said places. The Government shall supply the Bank with such information and returns as the Bank may from time to time require as to the composition of the balances in the said chests and the amount and nature of the transfers to and from the said chests. The Bank shall have access to the said chests at all reasonable times for the purpose of inspecting and checking the contents. The Government shall be responsible to the Bank for the examination and correctness of coin or notes at the time of deposit in or withdrawal from the said chests.

10. The Banks shall not be at liberty to close any of its offices or branches except on Sundays, New Year's day, Christmas day, Good Friday and on any other day declared to be a public holiday by any notification published in pursuance of the Negotiable Instruments Act (Act XXVI of 1881) subject nevertheless and notwithstanding the provisions of that Act to any special orders or directions which may be issued by the Government and the Banks shall be responsible that none of its agencies doing Government business for the time being existing shall be closed except on Sundays and on public holidays authorised by the Government within whose jurisdiction such agencies may be respectively situated.

11. The responsibility for all loss or damage to the Government which may result from any act or negligence or omission of the Bank or its agents in conducting the business of the public debt aforesaid or the payment of interest or discharge value thereon or the renewal, conversion, consolidation, sub-division or cancellation of any Government

security shall rest with and be borne by the Bank provided however that it shall not be incumbent on the Bank to verify signatures and endorsements on Government securities which, *prima facie* appear to be in order and in the acceptances of which the Bank shall not be guilty of any negligence and in such cases no liability shall be incurred by the Bank in respect thereto PROVIDED ALSO that in regard to the ordinary banking business at the offices, branches and agencies of the Bank of receiving and realising money and securities for money on account of the Government and paying cheques, orders, draft bills and other documents whether negotiable or not in the Bank's capacity of bankers for the Government and whether such business be done by the Bank or by agencies on its behalf the responsibility to the Government shall be that of the Bank and such responsibility shall be that of a banker to an ordinary customer.

12. The Bank shall remit on account of the Government between India and London such amounts as may be required by it from time to time at the market rate of the day for telegraphic transfers, subject to the proviso that if a large transfer has to be effected in connection with the flotation or repayment of a sterling loan or analogous operation, and if it is considered by either party to be inappropriate to apply the rate of a single day, an average rate based on a longer period may be fixed by Agreement between the two parties.

13. This Agreement may be determined by either party giving to the other party one year's notice in writing expiring on the thirty-first day of March in any year, such notice if given by or on behalf of the Government to be addressed to the Governor of the Bank and to be served by leaving the same with the Head Office of the Bank or addressing the same to him at the Head Office of the Bank by registered post and if given by the Bank to be served by leaving the same with or addressing the same by registered post to the Secretary to the Government in the Finance Department and immediately upon the expiration of such notice this Agreement shall absolutely cease and determine save as to rights or liabilities acquired or incurred prior to such termination.

14. In the event of any dispute arising as to the terms and conditions of this Agreement, or as to the rights or obligations of the parties hereto such dispute or difference of opinion shall, in the event of the parties hereto failing to reach an agreement, be referred to the Governor General whose decision shall be final and binding as between the parties hereto.

15. Nothing in this Agreement shall operate to affect in any way the obligations imposed either on the Government or on the Bank by or under the Act or any subsequent amendment or amendments of the Act.

16. The Bank shall be entitled to perform all or any of the matters contained in this Agreement through such agency or agencies as may be prescribed by the Act or any amendment thereof or as may be approved by the Government.

IN WITNESS WHEREOF HARAVU VENKATANARASIMH VARADA RAJ IENGAR, Esq., Secretary to the Government of Bombay in the Finance Department by the order and direction of the Governor of Bombay has hereunto set his hand and affixed his official seal and the common seal of the Reserve Bank of India pursuant to a Resolution of its Central Board passed on the eighth day of February 1937 has been hereunto affixed in the presence of its subscribing officials the day and year first above written.

SIGNED, SEALED AND DELIVERED by the abovenamed
 HARAVU VENKATANARASIMH VARADA RAJ IENGAR,
 Esq., Secretary to the Government of Bombay in the
 Finance Department for and on behalf of the Governor
 of Bombay in the presence of—

(Sd.) H. V. R. IENGAR.



(Sd.) B. M. RANE,

Assistant Secretary to Government,
 Finance Department.



The Common Seal of the Reserve Bank of India was
 affixed hereto in the presence of—

SULTAN MEHRALLY CHINYOY and DEVIDAS
 MADHOWJI THAKERSEY two of its Directors and

(Sd.) SULTAN CHINYOY.
 (Sd.) DEVIDAS MADHOWJI
 THAKERSEY,

Directors.

SIR JAMES BRAID TAYLOR, Kt., C.I.E., its Governor

(Sd.) J. B. TAYLOR,
 Governor.

AN AGREEMENT made this twenty-eighth day of July One thousand nine hundred and thirty-seven Between THE GOVERNOR OF BOMBAY of the one part and THE RESERVE BANK OF INDIA (hereinafter called "the Bank") of the other part supplemental to an agreement (hereinafter referred to as "the principal agreement") made on the twenty eighth day of July One thousand nine hundred and thirty-seven between the parties hereto.

WHEREAS under clause 5 of the principal agreement it is provided that the Government of Bombay (hereinafter referred to as "the Government") shall maintain a daily balance with the Bank not below such minimum as may be agreed upon NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED as follows :—

1. The Bank shall inform the Government by telegram of the Government daily balance with the Bank at the close of each working day.

2. The Government shall take steps by taking a ways and means advance from the Bank or by issuing treasury bills to ensure that the Government balance on each Friday is not less than a credit of rupees thirty lakhs. If a reduction in the Government balance is to be anticipated before the following Friday, e.g., owing to the beginning-of-the-month, disbursements, etc. the Government shall also take steps to ensure that this balance does not fall below the said minimum by more than rupees five lakhs.

3. The Government will not repay ways and means advances or invest any surplus of the Government balance unless the said balance exceeds a credit of rupees thirty-five lakhs.

4. Ways and means advances may be taken and repaid on any day without previous notice by telegraphic or such other intimation to such Branch of the Bank as the Bank may prescribe provided that such advances shall be for a minimum period of seven days and provided further that such advances shall be in minimum amounts of rupees five lakhs.

IN WITNESS WHEREOF Haravu Venkatanarasimh Varada Raj Iengar, Esq., Secretary to the Government of Bombay in the Finance Department by the order and direction of the Governor of Bombay has hereunto set his hand and affixed his official seal and the common seal of the Reserve Bank of India pursuant to a Resolution of its Central Board passed on the eighth day of February One thousand nine hundred and thirty-seven has been hereunto affixed in the presence of its subscribing officials the day and year first above written.

SIGNED SEALED AND DELIVERED by the abovenamed } (Sd.) H. V. R. IENGAR.
HARAVU VENKATANARASIMH VARADA RAJ IENGAR,
Esq., Secretary to the Government of Bombay in the
Finance Department for and on behalf of the
Governor of Bombay in the presence of—

(Sd.) B. M. RANE,

*Assistant Secretary to Government,
Finance Department.*



The Common seal of the Reserve Bank of India was
affixed hereto in the presence of—

SULTAN MEHERALLY CHINYOY and DEVIDAS MADHOWJI
THAKERSEY two of its Directors and } (Sd.) SULTAN CHINYOY.
(Sd.) DEVIDAS MADHOWJI
THAKERSEY,
Directors.

SIR JAMES BRAID TAYLOR, Kt., C.I.E., its Governor. } (Sd.) B. J. TAYLOR,
Governor.

**BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE
TABLE.**

SECRETARY OF THE COUNCIL : Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table a copy of the Bill further to amend the Indian Mines Act, 1923, for certain purposes which was passed by the Legislative Assembly at its meeting held on the 5th October, 1937.

INSURANCE BILL.

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member): Sir, I beg to move :

“ That the Bill to consolidate and amend the law relating to the business of insurance, as passed by the Legislative Assembly, be taken into consideration ”.

Sir, in placing this Motion before this House, the first thought, I should say the first regret, that occurs to me is the absence of Mr. Sen. His work requires no puffing or advertisement from me. I presume all Honourable Members here have read his report on insurance law and they can judge of the invaluable nature of the assistance which he has rendered to everybody who has had any hand in framing this legislation on insurance. The regret is all the keener in that his absence is due to a painful illness to which he has been subject for quite a fortnight, if not more.

Sir, as regards the speech which I propose to make at this stage I would like to inform Honourable Members that it is not my desire to take up all the provisions of the Bill or all the amendments which are likely to be moved. I am sure this House will realise that this Bill has received very anxious and prolonged consideration—starting from Mr. Sen's report during the drafting of the Bill, the deliberations of the advisory Committee, and then the Select Committee and prolonged discussion in the Assembly itself which lasted 19 days. I shall indeed be surprised to find a new argument advanced and I am sure that arguments now advanced will be a reproduction of what has already been said. I think this House will also realise that if this matter has received very careful consideration for over a year, if the matter has been fully thrashed out, it is rather difficult for the Government to agree, unless an overwhelming case is made out, to any change of any vital principle affecting the Bill, or of any important provision embodied in the Bill.

Although I propose to deal with the comments and criticisms which may be offered on the floor of the House in my final reply, yet there are certain matters which I ought at the very outset to place before you. I think I should first of all refer to the general position of foreign companies. Honourable Members who have studied the proceedings of the Assembly will find that at the very outset a very large section of the House thought and indeed they pressed for certain discriminations not only as against non-United Kingdom companies but against United Kingdom companies as well. After very prolonged deliberations those points were given up by all sections of the House, including the section which intended to press for them. I need not go into the matter in detail, but I think I should refer to the position of non-United Kingdom companies. Even after the Bill was passed by the Assembly no representations worth the name have been received complaining of the discrimination against, for instance, Canadian companies as compared to United Kingdom companies. One has got to remember that what the Government wanted in the matter of keeping assets here was not 55 per cent. or 45 per cent. but the entire 100 per cent., and that that measure was approved by the Select Committee, providing for keeping 100 per cent. of the assets here—I am using the word “ assets ” very loosely, but Members will have no difficulty in following what I mean. If it had to be changed to 55 per cent., what was the reason? The objection came, not so much from the foreign companies—most of them were willing, provided they were given reasonable time (and

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more than reasonable time has been given under this Bill) to put in 100 per cent.—but the difficulty was created by the Indian companies. We shall probably hear later here of the necessity of helping the younger Indian companies. I can assure the House that we have gone to the farthest limit possible for helping the younger Indian companies : but I wonder if it is known to all Members of the House that as regards some of the smaller companies I regret to say that in many of them, the life policy fund is represented by negative quantities : in regard to a larger number than the negatives, the amount of the life fund is less than the last year's premium. The situation of course is extremely alarming and while tender concern for the young struggling lives of these Indian companies naturally appeals to all of us, we have also got to see that we do not allow a number of companies to crowd the field, companies with whom it is a question of time as to when they will go into liquidation.

As regards the Canadian law—the presence of the Honourable Sir Phiroze Setna here is a constant reminder of the Canadian companies—the position is this : the complaint is, “ Why should the United Kingdom companies be treated in a different way from United Kingdom Companies ? What have we done ? We have done business on sound lines : there has been no complaint as regards our business methods and so on ”. All that is conceded. But is not the position rather weak when under the Canadian law all foreign companies, including the British companies, have got to keep assets in Canada ? The trivial differences as to the nature of the securities which can be deposited is a matter which I need not discuss at this stage. But if Canada felt the necessity of having one law for Canadian companies and another law for non-Canadian companies (and the British companies are placed in a worse position by the last legislation), surely it does not lie in their mouth to complain of this Bill which is doing unto them what they have done unto others. The matter of keeping assets here, I need hardly add, is not based on any desire for retaliation.

Then as regards the investment section, this House should also know the history of that section. There is no method by which you can accurately measure whether the quantity should be 55 or 60 or 70 or 80 per cent. We cannot have the use of a chemical balance or a galvanometer or any such mechanical appliances do not exist for finding the exact quantity. This section alone drew over 250 amendments. We had a very long discussion and the view points of different sections were conflicting. In the end there was an informal conference of leaders of all sections of the Assembly—the European Group, the Independents, the Congress, and so on. Everybody was presented there and as a result of their joint deliberations, section 26 was framed and that explains why although there were notices of 250 amendments, none whatever were moved.

I should just touch on the point of retaliation about which some very ill-informed criticisms have appeared in the press and elsewhere. I would like this House to realise that although under this Bill there is full power of retaliation so far as India is concerned against non-Indians this power of retaliation is confined to insurance law only. As a matter of fact notices were given of some amendments for discriminating against countries where there are any laws unfavourable to Indians : for instance, it was said that America has immigration laws, Canada has got certain laws, South Africa has got certain laws, which discriminate against Indians and therefore that ought to be a ground for putting them in difficulties so far as their insurance business here is concerned. The Bill makes it perfectly clear that retaliation is limited to the

matter of conditions relating to insurance which prevail in foreign countries. For instance, America cannot be hit because American emigration laws, or laws relating to acquisition of domicile, or holding of property, discriminate against Indians.

I think Honourable Members will find that it has been made perfectly clear that there is no scope for retaliation under this Bill, because foreign laws not relating to insurance discriminate against Indians. If there is a condition in some foreign country which applies to Indian companies and which the Indian companies have first to fulfil before they are allowed to carry on business in that foreign country, then under these sections Government will have the power (in fact it is mandatory) to enforce similar provisions against that country, but it does not mean that American companies cannot carry on business here by reason of laws not relating to conditions of insurance business discriminate against Indians.

THE HONOURABLE MR. KUMARSHANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : Why is this distinction ?

THE HONOURABLE THE PRESIDENT : The Honourable Member cannot interrupt the Honourable Member in his speech.

THE HONOURABLE SIR NRIPENDRA SIRCAR : I think the House will agree that the provisions of the Bill, looked at from this point of view, cannot be described as vindictive. They are not wider than what is necessary for protecting Indian interests, but I do think that this House ought to know the origin of these sections. It was not necessitated by any action of the United Kingdom companies, because under the laws of the United Kingdom there are no discriminations against any Indian company or against a foreign company,—it was not necessitated by a country like France or America, because there is nothing to prevent (in spite of emigration or other laws against Indians) Indians doing insurance business there. If Honourable Members will cast their minds back for a moment they will remember that a very large number of questions were asked about Italy, and the same applies to Japan as well. Whatever the laws there may be, at least foreign companies including Indian companies,—I do not say all foreign companies, but some foreign companies, are precluded from carrying on insurance business there, and the questions were put in the Assembly directed to the Government to find out why, when Italy prevents Indians from carrying on insurance business there, why Italian companies should be allowed to carry on their business in India ? That is the genesis of these sections, and there was a desire that we at least should have the power to deal with these foreign countries in the same way as the Indian companies are dealt with in those countries. The provisions of this Bill do not hit America or Canada.

Now, Sir, if I may say one word more about Canada, I may assure the House that their interest was pressed by the European Members of the Assembly. I found some insinuations somewhere in the press that because the United Kingdom companies have not been hit, therefore they did not bother as to what was going to happen to Canadian companies. That, however, is not a fact. They tried their best, and they agreed ultimately, to the provisions in this Bill because they could not be resisted on their merits. The Canadian companies were also given, so far as I was concerned, every opportunity of placing their case before me. I had several interviews with their representatives and I am breaking no confidence if I say that I was at first told that if required to keep assets in India all these Canadian companies will

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have to shut their shops and go away. Gradually there was an increasing mildness in their tone, and ultimately I gathered the impression that there would be no difficulty in complying with the provisions of our Bill (just as foreign companies have got to comply with those provisions in Canada) provided reasonable time is given to them for bringing in their assets. I remember a caustic remark, which of course I do not mind,—I am quite accustomed to them,—that the Law Member thinks that by waving a magic wand he can bring in crores of rupees from Canada. In fact what was really wanted was reasonable time for bringing in assets here. The point has been more than met, because they have now been given four years,—it really comes to five years,—for putting in their requirements in instalments. Then it has got to be remembered that these companies (and if I am referring to Canadian companies, it is because one of the companies which does a very large business here is a Canadian company), that a large bulk of their investments are already in Government of India securities. We have under the provisions of section 26 also allowed them to put in British securities. They have been given four years for bringing in their assets, and we have flattered the Canadians by imitating the language of their statute,—we have copied the language from their Act.

But, Sir, I find from the representations which are pouring in,—I say they are pouring in because I got a couple just before I left my house today,—that the big battle is going to be fought here, not over Canada, but over chief agents. I am sure the arguments which at one time were advanced in another place will be advanced here, but I think I should make the position clear as to the attitude of Government as regards chief agents. The objection really boils down to this. It is said we have made no provision for limiting the commission which can be received by the chief agent, and therefore the whole scheme of our Act is nullified by reason of this omission, and, secondly, if the chief agent gets a huge commission, out of that he can pay a rebate to the applicant for the policy, and there is no specific provision in the Bill that rebate should not be allowed or paid by the chief agent. As far as the second criticism is concerned, it will be put right, and we shall move an amendment, the result of which will be that rebate will be forbidden not merely as regards licensed agents but also by chief agents and any other agents. But I feel I should deal at some length with the criticism which has been made and which at first sight seems to be strong, that if there is no limitation on the commission of the chief agents, then the big door will be left open, and it will not be possible to prevent the cut-throat competition between insurance companies. The objections which I have to the proposals, which, I am sure, will be moved here, are first of all, that the definition of “chief agents” is one of very great difficulty. We have considered that definition with the help of some very eminent lawyers not belonging to Government, but to other parties in the other place, and I shall indeed be surprised if a satisfactory definition of “chief agent” can be formulated, that is to say, a definition which will not rope in people who are not intended to come under it or will not exclude people who are intended to come under it. Let us see what attempts have been made. The Indian Insurance Legislation Committee who have been thinking over this matter for years and publishing books rather profusely have defined “chief agents” like this. Their definition is :

“A Chief Agent, in the case of life insurance business, means and includes any person who, under the authority of a power of attorney or letter of appointment from the principal office of insurer, performs, in his own office and in the area placed under his jurisdiction, such functions of an insurer as may be assigned to him.”

Let us wait for a minute here. First of all let us consider this. Suppose there is an English company doing a large business in England, and their work here is done, let us say, by Messrs. A. B. and Co., Ltd., Calcutta. I would like to know under this definition what would be the position of directors of that company, what would be the position of a manager appointed by this Calcutta company. It is said that they are not intended to be hit, but surely they will be included by the proposed definition. Those who are pressing the matter of the limitation of the chief agent's remuneration seem, if I may say so respectfully, to be obsessed with the idea that the chief agent *plus* the licensed canvasser cover the whole field of agents.

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It does not. There are all sorts of agents, and, if necessary, at a later stage, I shall give further illustrations. You are providing for the licensed agent, you are providing for the chief agent, and I ask you to think what the consequences will be, as a big gap is going to be left. It is no good saying we know what a chief agent means; that will not do, because the chief agent has got to be defined in the statute, and whatever the understanding of the words "chief agent" may be, unless you can find a satisfactory definition, it is of no use whatsoever. Then, the definition says that this man should work in his own office. But why? Why should not the chief agent go out of his office to a neighbouring town, and do business there? I am not trying to pick holes in the language of this definition, but any definition which is put up here, I hope I shall be able to convince this House of its unsatisfactory nature; at any rate, the insurance companies for two years have been unable to frame any satisfactory definition and their last letter shows that they cannot frame a satisfactory definition of a chief agent, satisfactory from the point of view which is urged by these representations. My objection however to the proposal about chief agents is not based solely on the ground of difficulty of a definition.

But, Sir, let us come to a matter of substance. I remember reading a speech of Seth Mathuradas Vissanji in which he gave an illustration. He had to appeal to Indian sentiments and in his illustration he must think of a foreign company. Therefore, his illustration was this,—I am taking his facts to be absolutely correct,—that somebody was going to insure in the Globe Insurance Ltd. of which I think he is either a director, or, at any rate, one of the persons who are responsible for the business of that Company, that the premium payable by this particular person would have been something like Rs. 60,000, but what happened was this. A foreign company promptly approached this man and said, "Will you insure in our company? We shall give you a commission of 60 per cent." Now, is it realised what that means? That means in a particular case a particular individual was seduced from his Indian loyalties by this offer being made of a commission. But surely if the commission were limited to 30 per cent. a bribe could have been offered in the shape of an appointment in the office. For one moment let us banish from our minds the question of one company being an English company and another being an Indian company. The struggle really is between the smaller companies on the one hand and the bigger companies, Indian and non-Indian, on the other. Let us propose to limit the commission of a chief agent to, say, 30 or 40 per cent. The struggling smaller companies are hit by that rule. But what about the big companies? What about the Oriental? Cannot they open branch offices wherever they like? And is there any limitation in the Bill about what they can spend upon branch offices? None. Therefore, the position is this. Whereas the smaller companies will be hit by this proposal, the bigger companies, with their larger resources, capable of opening branch offices, will get out of it altogether. That is a point which has got to be considered.

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The second point is this. In all these suggestions what is said is, that the chief agent,—whatever the definition may be,—the chief agent will get, let us say, a commission of 30 or 40 or 50 per cent. of the premium payable on the policy, and no other form of remuneration will be payable to him. Quite logical, because if other forms of remuneration are available to him, then there is no sense in fixing, say, 30 or 40 per cent. He may be paid 30 per cent. *plus* a salary of Rs. 500 per month. Just realise the position of the smaller companies *vis-à-vis* the bigger companies. I have started a company—I hope I shall not do it—but assuming that I am starting a company and it is not so big as the Honourable Sir Phiroze Sethna's company, the Oriental, and that company proposes to have a chief agent, let us say, at Burdwan, the only terms that it can offer is, "You will get a certain percentage of the premium payable on the work which is secured by you". Is it possible to get chief agents on those terms for companies who have not already got large business at that centre? Is the chief agent not to be allowed any house allowance, or any motor car allowance, or any pay, but only to get 30 per cent. of the premium on the policies which he can secure? That will be extremely unfair on these smaller companies. The bigger companies will have an undue advantage over the smaller concerns.

Another point which I would place before this House for their very careful consideration is, why was the commission received by the chief agent getting higher and higher? What was the reason? I think the answer is quite obvious. Because the insurer knew that out of this commission, let us say, 70 per cent.,—out of this 70 per cent. which the chief agent gets he will have to pay commission at increasing rates to the canvasser, the licensed agent. The larger the amount he pays to the canvasser the smaller the amount which remains in his hands. But now under this Bill, the maximum has been fixed for the licensed agent, the canvasser. Therefore, there is no longer any question of the chief agent going on paying higher and higher rates to the canvasser or the licensed agent. Well, if that is so, and if, as I said, we move an amendment that the chief agent or anybody else is not allowed to make over any rebate to the policy holder, then, what is the incentive for the insurance company to pay 70 or 80 per cent. to the chief agent? Why should an insurance company do so? Would there not be a competition between chief agents for securing the work of insurance companies, and if one is available for 30 per cent. why should insurance companies pay 70 per cent.? These are matters which have got to be taken into consideration by the House. I am quite prepared to discuss this matter further on the floor of the House, but, as at present advised,—and I do not think I shall have any different views later on,—I am altogether opposed to the limitation of commission so far as the chief agent is concerned, or trying to perform the very difficult task of defining what a chief agent means. The Nationalist, the Independent, and the Europeans were opposed to limitation of commission of chief agents on very substantial grounds.

Then, there are representations on another matter; namely, it is said that the maximum commission which we have fixed for general insurance, that is, 30 per cent., is too high, and that it ought to be reduced to 15 per cent. I admit, Sir, that, as a result of the enquiries which I made not only from insurance interests but from practically every section of the Assembly, I find there is general agreement that this 30 per cent. should be reduced to 15. That is the opinion I have received from London. That is the opinion of the European Group and of the other groups and I find that there is a consensus of opinion that 30 per cent. should be reduced to 15 per cent. That being so,

we shall ourselves move an amendment for reducing 30 per cent. to 15 per cent. The other matter about which there is no such unanimity at the present moment is the question of reduction from 45 to 40 per cent. in connection with life insurance. The opinions which I have received so far are all in favour of reducing 45 to 40 but I have not yet heard from one or two interests to whom I had made a reference. I hope to hear from them either today or tomorrow. If I find that there is general agreement—of course I do not imagine that there will be no dissentient whatsoever—that 45 should be reduced to 40, then I shall be quite prepared to do that.

On the question of managing agents which occupied a very long time in another place, I propose to devote only a few minutes. The trouble about managing agents, I am sorry to find, is one of home origin. Foreign companies have not created that trouble. The United Kingdom companies have no managing agents but it is one of those diseases in connection with insurance which are peculiar to the Indian climate. We have tried to apply some remedy. I am not labouring under the impression that what has been done under this Bill will prevent dishonest managing agents from getting out of it. Nothing can be done by statute which will secure complete success but I do think that if a majority of them are prevented in the way in which it has been attempted to be done, that is enough justification for the measures which have been put in the Bill.

A fear has been expressed—and I do not altogether brush it aside—that the definition of managing agents is rather vague and therefore it may rope in men like managers or managing directors or agents in India doing business for Foreign principals. That certainly is not the intention, and that is why a manager has also been defined separately. Surely that is not the intention. I do not myself read the definition as creating that danger.

There is one other matter to which I should refer and that is the powers of the Superintendent. At one time it was said that the powers of the Superintendent were very drastic. That criticism was just. Ultimately in the Bill as it has emerged from the lower House, all parties have agreed that in connection with the larger powers of the Superintendent, there should be a right of appeal to court. That has been done. Every section of the House there agreed to the proposal. That is the scheme, but it has been pointed out to me by departments of the Government of India who have administrative experience which I do not claim that difficulty may arise in connection with its working. The Superintendent of Insurance, under section 77, shall at least once in two years and may, if he thinks fit, at any time visit the principal office of a provident society and inquire into the solvency of the society, and so on. It has been feared, not without reason, that this will be too much for any single individual. There are 500 provident societies. That is not the only work which he will have to do. There are also several hundred life insurance companies and if that is so, it will be necessary to give him some kind of power of delegation. That is rendered necessary by the very existence of a very large number of provident societies and insurance companies.

Then some difficulty has been pointed out about the language of the proviso to section 101 relating to the laying of the rules before the two Houses. As I understood it—and I am sure every part of the House understood it—the intention was that powers should be left to the two Houses, provided they agree as to the form—to modify the rules which will be framed by Government. The question is, what is the point of time from which the rules will come into operation? It has been very reasonably said that unless they come into operation at once we shall be landed in difficulties. If the Act comes

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into operation on the 1st of October, 1938—I am mentioning that date only by way of example—we are not committed yet to any date—you cannot proceed to frame rules until the Act. comes into operation, because the rules are framed under power given by the Act. Let us assume that everything had been got ready and you bring the rules into force on the 15th October. It has got to be laid on the table of the two Houses for a month. The House may not be sitting. It may not be in session for four or five or six months. In that case, what is going to happen in the meantime? Apart from this difficulty, those who have experience of administration point out that rules have often to be changed as a result of experience obtained after working the rules. Sometimes the rules have got to be changed rather quickly and it will be unthinkable that when you find that a rule is unworkable your work may be held up, because you cannot change the rules for the next six months. The principle of section 101 as contained in this Bill we are not going to touch, namely, that both Houses will have that power, provided both Houses agree within a month as to the modifications. I wish to make it perfectly clear that when I refer to the principle my observations are limited to this Bill only. Government is not committed to it as a principle applicable to all Bills. As a matter of fact after this Bill was passed, the Mines Bill came up before the Assembly and there the Government had to take up the attitude that they will not agree to certain provisions about rules. All that I want to make perfectly clear is this, that so far as this Bill is concerned we do not intend to disturb what was aimed at, namely, for the purposes of this Bill the rules will be capable of modification by agreement by the two Houses but that is not a general observation which should be taken as committing Government to any principle. On each occasion Government will claim the right to decide its course of action. For further clarification the language of the proviso may have to be altered, but there is no desire to alter in substance the proviso as it has emerged from the Assembly.

Sir, as regards the unofficial amendments which we have received so far, it is not possible for me to deal with them or to take them up one by one and suggest what is going to be our attitude, remembering that one Honourable Member has given notice of 163 amendments. But if that Honourable Member thinks that he is creating a record, then he is very much mistaken, because my friend, Mr. Sri Prakasa, in the other place gave notice of more than 200 amendments. But there is yet time and my friend may wake up and another 40 may be coming in within the next two days.

I would like to say generally that Government have gone as far as is possible in the matter of helping younger companies, and they will resist any change in either direction—either for reducing them or for enlarging them to any substantial degree.

One remark I should make about the Schedules, because the temptation is very great for people who think that they understand accounts—I am not one of them—to tamper with the Schedules, change this item, draw another line, and so on, and so on. I would therefore like to tell the House the history of the Schedules. The Schedules which appeared at the end of the Bill as introduced were very carefully considered by experts. But leaving that stage aside, when the matter came before the Assembly, the Schedules occupied great attention from all sections of the House and we received the greatest assistance from two gentlemen whose names I must mention, who were present at innumerable conferences and but for whose help this kind of practically agreed measure would not have been arrived at. One was Mr. Sturgeon,

who came out from England and who was looking after the interests of foreign companies and the other was Mr. Vaidyanathan, an Indian Actuary, and between the two, after endless conferences, the Schedules were evolved and there has been no substantial disagreement about the Schedules, and I was glad to find that, unlike two lawyers, two accountants can sometimes agree ! This is only an indication that any attempt to tamper with the Schedules will be most violently resisted from this side of the House. But there was one particular measure which was agreed to, and that was, that in these Schedules the companies are required to split up their charges under "Printing charges," "Management charges", and so on. There is a long list. It was agreed that so far as foreign companies are concerned, they need not take the trouble to split up their accounts under so many heads if, as a matter of fact, in their own country they do not do it. But, unfortunately, as the proceedings will show, in the hurry of the moment, that was not moved. I think it was intended to be moved by a Member of the Congress Group. Later on, the next day, the Leader of the Opposition, Mr. Desai, made a most gallant attempt to induce the President to allow him to move. It could not be done, owing to technical reasons. That agreed amendment of course we shall put in here.

Sir, I do not think I need take up the time of the House further, because, in connection with any important amendment which may be moved, I shall have ample chance of dealing with it.

Possibly I should refer to one point about section 53, which is mandatory in its nature. As regards section 53, Honourable Members will have noticed two facts. One is that this is limited to conditions for carrying on business. In each country, there are, I daresay, hundreds of provisions relating to insurance. It does not mean that all the provisions are within the scope of this section. To give an absurd example, supposing in America the law is that you have to submit your accounts every week. It does not mean that the Government are under compulsion under this section to introduce a similar measure against American companies. It is only conditions precedent to be allowed to do insurance work that this section is aimed at. The second point is that under the section, whether such a condition exists or not or whether it is a condition which comes within this section is left to the Executive Government. The Government have got to be satisfied. If satisfied, then this section will be used.

Sir, I do not think I will take up further time, and I beg to move. (Loud applause.)

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Mr. President, quite a number of Bills have been introduced and will be introduced by the Honourable Sir Nripendra Sircar during his term of office as Law Member of the Government of India. I am sure the country at large will hope that his term of office as Law Member will be extended and that he will be pleased to agree to such extension.

Sir, of the Bills he has introduced, two are certainly of very great interest to the commercial community of this country. One was the Indian Companies (Amendment) Bill, which was passed into law last year, and now we have the Insurance Bill with which the public at large are very seriously concerned. These Bills in their initial stage cannot be expected to be perfect. As we know, in regard to the Companies Act, there are already so many anomalies and so many sections which are unworkable. I will not be surprised,

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therefore, if Government themselves will, before long, introduce an amending Act to put right these sections. The same remarks must apply to the Insurance Bill. The Bill has come to us from the lower House after nearly 1,200 amendments had been tabled in the other House, and yet, the Honourable the Law Member, in the course of his remarks this morning, has admitted that certain changes will be necessary and that in addition to the amendments which the Honourable Members of this House will introduce, he himself will introduce some to put right what are evidently some mistakes.

Now, Mr. President, before the Bill was introduced, there was not a single member of any group in the Assembly who might be said to have had a practical knowledge of the business of life insurance. The European Group recognised this and very rightly got one of their members to resign and in his place they put in a European who represented in India a large insurance company doing all kinds of insurance business. He was there to advise the European Group. I do wish that the Government of India had asked one or two of their nominated members to resign and put in temporarily in their places in the Assembly one or two Indian Members who have thorough practical knowledge of insurance business. Had they done so, I for one certainly believe that some glaring mistakes which have crept into the Act would have been avoided and that they would not require to be altered in this House. The argument against such an appointment would have been that those men would have voted against Government in divisions. But my reply to that would be that if such practical men were in the Assembly perhaps there would have been less occasions for divisions in the Assembly.

So far as India is concerned, the only Insurance Act that we have on the Statute-book is the one known as the Life Insurance Act, 1912. That Act relates exclusively to life insurance, and perhaps rightly so, because previous to that date, namely, 1912, there were not more than one or two Indian companies which did other than life insurance business. In the same year another Bill was introduced in regard to Provident Societies. Both these Bills, in the words of Government themselves, were experimental measures and they would be amended, as Government pointed out, after experience. The experience has been that these Bills have been failures to some extent, inasmuch as some of the life insurance companies started within the last few years and some also of the provident societies are on the verge of insolvency.

After that another Act was introduced in 1928, but that was for no other purpose than for eliciting information from different classes of insurance companies in regard to the business they did every year, etc. In India commercial bodies have been making representations to Government for quite a number of years to amend the Act of 1912. Government did not do so till now for the reason which they advanced more than once in the Legislatures that it would be no use tinkering with our Act. The proper course would be to await the result of the Clauson Committee and to see how far the British House of Commons was prepared to carry out the recommendations made by that Committee. The English Act is dated 1909. The Clauson Committee was appointed by the Board of Control to make recommendations in regard to changes which would improve the Act. The Clauson Committee's Report was submitted as far back as June, 1925, but so far nothing has been done in England. I am glad, therefore, Government did not think of waiting any longer but have introduced this measure. The changes now proposed therefore have been long overdue. We have reason not only to congratulate the Honourable Law Member but to thank him for the time and trouble that

he has devoted to the preparation of this Bill and its conduct through the Assembly and now through this House. We are also indebted to his able lieutenant, Mr. Susil Sen, whose absence owing to serious illness in common with the Honourable the Law Member, we greatly deplore and we trust he will soon be restored to perfect health.

The Government have proceeded in regard to this Bill in a proper manner. First of all they appointed an Advisory Committee which met about this time last year and the Bill which has been prepared is based more or less on the deliberations of that Committee. It was then introduced in the Assembly at the Delhi session at the beginning of this year, next referred to a Select Committee and the Bill was considered at the Simla session and passed by the Assembly, as the Honourable Law Member told us this morning, after deliberations which lasted for full 19 days.

What are the aims of this Bill? They are first of all to see that non-Indian companies are put on a level with Indian companies in the matter of deposits, in the matter of submitting their statements of figures, etc. Further, all kinds of insurance, life, fire, marine, accident, etc., have been brought into the purview of this Bill. Again, sections have been introduced which it is hoped will prevent the growth of mushroom companies in our midst. Again, it has been suggested and very rightly that the system of managing agents be eradicated. Also the licensing of agents is proposed, and likewise rebates are penalised and, above all, protection is offered to the life policy-holders inasmuch as companies are asked to maintain their assets against their liabilities on life policies in the country.

As I have said, these measures were long overdue and we therefore welcome them. But at the same time we would like the Legislature to see that the provisions which are embodied in the Bill are not carried to such lengths as will harm certain interests to which I shall presently refer. Such a state of affairs requires to be avoided in the interests of insurance business generally in this country. The Bill is supposed to be framed not only on the Canadian system of direct Government control but also on the British principle of minimum interference with maximum publicity. At the same time one cannot help remarking that the British principle is more or less absent, and as regards the Canadian Act the beneficent sections of that Act in regard to investments have not been followed but on the contrary been deliberately avoided.

Sir, it is only of late years that more attention is being paid to the matter of insurance by the Indian public. Only 20 years ago I do not believe there were more than two companies which wrote more than a crore of rupees of life insurance business per annum. Today the case is different. But even now, although the oriental wrote as much as Rs. 10 crores last year, we cannot be said to have done more than just touch the fringe of the country. The average amount of insurance which an Indian carries is indeed insignificant, but I am sure with greater prosperity in the land and with a better understanding of one's responsibility to his family insurance will grow in this country and will be at least ten times as much as it is today within perhaps another ten years. Incidentally I may remark that the influenza epidemic of 1918 in this country was a blessing in disguise to life insurance companies in India. In that epidemic India lost more lives than the Allies and the Central Powers together in the Great War. That was an eye-opener to the public and ever since that date life insurance has been very considerably on the increase. But notwithstanding this, the average amount per head of population in India, including the Indian States, is not more than Rs. 6-8 or Rs. 7 per head. Compare this with other countries where the benefits of insurance are better

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understood. In the United States the average is Rs. 2,300, in Canada Rs. 1,496, in Great Britain Rs. 700 and in Australia and New Zealand Rs. 900. This includes all kinds of insurance, namely, group insurance, industrial insurance, etc.

Again, the position of the agent in India and particularly of the life insurance agent was looked down upon. On the Bombay side if a man was a failure at all other professions, he was recommended to become a *dalal* or a *kadal*, which means either a broker or one having a shop dealing in country liquor, which implied that both these professions did not require any superior intelligence. Sir, if that was the position in India, the position of the life insurance agent even in England was not much better. I have always held that the business of fire insurance and marine insurance has been conducted on the best lines in the United Kingdom; and similarly I have always held that the business of life insurance is best conducted in the United States of America and in Canada and we have much to learn from them. If that is so, it is because there they attach very great importance to preparing people to work as life insurance agents. They even have University courses in different Universities for teaching insurance and also studying the art of salesmanship. Life insurance agents in the United States of America and Canada are looked up to, nay, the income of some of the most prominent men in this line of business I am told—and I have reasons to believe it—is as much as that of the best lawyers in the country—perhaps even as much as that of the Honourable the Law Member before he joined Government! The position today in England is also improving and I have no doubt that after this Bill is passed and more care is taken, life insurance and other insurance agents will all do better for themselves in India.

The Bill, as I have said, deals with all kinds of insurance, including provident societies. There are not, however, many sections which by themselves embrace all the different kinds of insurance and therefore several sections have been devoted to the different kinds of insurance and as is but natural more sections are devoted to the business of life insurance.

We in India have derived our knowledge of insurance business from British and other companies which have been working in our midst for a number of years. Our companies are of recent growth. It is of course a legitimate ambition on the part of Indian companies to see that their business increases. But it is hardly fair that on that account recommendations should be made as they were made which would practically remove British Empire companies from this country. To live and let live ought to be our motto, for it is distinctly to our interest to keep these companies here, for thereby we shall do good, immense good, to our insurance business and that I hope to be able to show in the course of my remarks.

Critics have clamoured for some time past that non-Indian companies have made heavy inroads into their business and this was the charge which was put up before the Advisory Committee. The Honourable the Law Member when he made his speech in presenting the Bill in the Assembly at the last Delhi session assured the House that he was satisfied that there was no cause for such complaint. In fact expert evidence was produced before that body and the charges against these companies were that they were dumping, that there was unfair competition and they did all sorts of things to damage Indian interests. I again repeat that the Honourable the Law Member was convinced that there was no truth in these statements and I say that it was all

mischievous exaggeration. In fact the expert who appeared before the Advisory Committee cut a very sorry figure indeed, for he had to eat his words not being able to prove any of his allegations.

Take the case of assets against Indian liabilities in life insurance being required to be kept in this country. A company operating in many countries throughout the world is in a position to produce life insurance of very great security provided its assets can be centralised and maintained in a thoroughly liquid condition. If its assets have to be deposited or held in very small amounts in a large number of countries in which the company operates, the whole structure is weakened, because it then becomes difficult, if not impossible, to move funds from one place to another in order to meet unusual conditions. It seems to me hardly necessary to develop this thought, because it would be quite apparent that a single large company is practically certain to be stronger and more able to resist the strain of diseases and epidemics in various parts of the world than would be the case were its assets to be divided into small units incapable of being transferred from one place to another and this is what the Bill proposes. To all intents and purposes, a company becomes merely a union or association of small companies.

The Select Committee attached great importance to the Canadian Act, and rightly so, because it is the strictest Insurance Act in the world. Now, what does that Act lay down? So far as Canadian companies are concerned, it lays down that they must invest their assets in regard to Canadian policies in Canadian securities to the extent of two-thirds. British and foreign companies, however, working in Canada would, under the Canadian Act, be free to cover their liabilities in Canada with non-Canadian securities. It would be advisable, therefore, if in India an equally free hand were given instead of tying down companies in the matter of investments as is provided for in the Bill and also of tying down some companies, namely, British Empire companies and foreign companies, to a greater extent than others. The explanation I have just offered will differ from that which has been given in regard to the provisions of the Canadian Act by the Honourable the Law Member. What the Bill lays down is that so far as Indian companies and companies in the United Kingdom are concerned they will be required to invest only 55 per cent. of their assets against liabilities on life policies in India in Government securities or in securities the principal and interest of which are guaranteed by the Government of the United Kingdom. As to the remainder of 45 per cent. they can invest in whatever manner they like. Now, this facility which the Indian companies will enjoy has perforce had to be extended to United Kingdom companies. There was no help for it. If the Select Committee or if the Assembly could have prevented the United Kingdom companies from enjoying this facility, I am perfectly certain in my own mind that restrictions would have been imposed against those companies as well; but what has saved the United Kingdom companies is the fact that according to the Government of India Act, 1935, there cannot be any discrimination against them. It was therefore that the Select Committee and the Assembly were absolutely helpless and had to treat the United Kingdom companies on a par with Indian companies. Not being able to do anything against United Kingdom companies, they have done the next best thing they could do. They have therefore tried to harm other companies, *viz.*, companies in the British Empire outside those of the United Kingdom as well as foreign companies.

The Honourable the Law Member has referred in the course of his speech on more than one occasion to the Canadian Act and to the business done by Canadian companies in this country. May I point out that of the British

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Empire companies outside those of Great Britain, there are five which are doing business in this country in life insurance. Three of them are Canadian, one is from the Straits Settlements and the fifth is from Australia. The Law Member has referred in particular to one Canadian company which does a large amount of business here. I may be permitted to mention its name. It is the Sun Life Assurance Company of Canada. It has been working here for the last 45 years. It has given general satisfaction to Indian policy-holders. Its plans of insurance and its methods are copied by many Indian and other companies, which is the greatest compliment that can be paid to it. It has issued life policies in India to the tune of 32 crores of rupees, and even before the Bill was dreamt of it had invested 6 crores of rupees in India. I know that under the provisions of this Bill they will be required to invest another 4 crores in Indian securities. But why introduce this compulsory measure upon a company which, as I have pointed out, has done much business, has given general satisfaction, whose plans are copied by others and which company in every way has given a lead to proper and successful life assurance business management in this country ?

What does the Bill propose in regard to these companies ? They will be required not only to invest 55 per cent. in Government securities and securities the principal and interest of which is guaranteed by the Government of the United Kingdom but they will be compelled by law to invest full 100 per cent. of such assets against policy-holders' liabilities in such securities. That is a positive hardship ; no, I will go further and say that it is positively unfair. It is not fair to treat Empire companies on a footing with foreign companies, such as Italian, French or Japanese.

The argument advanced in the other House in favour of this section was the principle of retaliation. But I would point out that, if another part of the Empire, be it a dominion or a colony, does not treat Indian companies there in a fair way, by all means retaliate against it. But why should you retaliate against a Dominion like Canada which will allow Indian companies to work there and on the same terms as British companies ? I know there is no Indian company working there at present but if it goes there there will be no objection to it, it will be treated simply and purely as a British office and will enjoy the benefits that a British office would enjoy. I know that in South Africa they do not give us the same facilities. As connected with a large Indian company, I may tell you that that office had to send an official from India to investigate into certain matters involving loss of money to that company. All that the South African Government agreed to was to allow that Indian officer to be there for three months and no longer, with the result that the enquiry is incomplete and the matter has had to be placed in the hands of a South African European who has had to be appointed for the purpose. Certainly retaliate against such a country, but why against Canada or any other dominion or colony which extends to you the same facilities as it extends to purely British companies ? That is my reason, Sir, for saying that you should not treat them as you attempt to do under section 26 (2) of the Bill. I say we are not helping ourselves by trying to put obstacles in the way of companies other than Indian ? I will try to explain this. It is a popular impression with most people that insurance is a national industry which the country must foster and protect to the best of its ability, like any manufacturing or industrial concern. In my opinion this is a mistake and a fallacy. It implies that people who hold such a view are wanting in a knowledge of what insurance means. Insurance is a scientific application to business affairs

of the law of probability. We all know that accident must occur and we insure against them. The insurer calculates from the spread of his liability what premium he can accept on an individual case. Naturally the greater the spread of liability, the smaller the premium. But reduce your spread and you are bound to ask for more in premium. Therefore it is essential for an insurance company to have as great a volume of business spread over as large a portion of the globe as may be possible. The purpose of this Bill is or ought to be to put your own companies in the position of catering for and accepting such world-wide business under modern conditions. That is the only way to advance the interests of the company, the policy-holder and the nation, because a large well-established insurance company is not a national industry by any means but can easily become a national asset.

Exactly this is the position of the large composite offices in the United Kingdom. They have to spread practically all over the world and it is in consequence of such spread all over the world that they are able to offer premiums for policies at the lowest possible rates which, strange to say, benefits not only the foreign country but also Great Britain and the British Empire. For instance, now, let me give you an example—and I can only give one in regard to Bombay because of my personal knowledge of insurance business in that Presidency. Residential buildings are insured there at the very low rate of one and a half anna per cent. Suppose a house worth Rs. 100 was a total loss. How is that loss to be made up by the company? We will assume that there are many other houses of the value of Rs. 100 and they are all insured by this company. That company would require to insure 1,065 buildings of this kind on which a premium at the rate of one and a half anna per cent. would bring to the company Rs. 100 to enable it to pay the total loss which I have referred to. This is how it is done and this is how a low figure of premium can be charged,—only because of the company's accumulated experience all over the world. It is therefore an advantage that we can insure with companies which are world-wide in their character. Some companies of late years have tried to refuse a licence to other than nationals. In such cases the rates of premium are bound to have gone up and I will quote the instance of Turkey where because they will not allow outside companies to come and work there they have had to increase their rates very considerably.

Now, Sir, India is, as we know, a very large but at the same time a very poor country. And the general amount of insurance business that is offered by the country is small. If, therefore, we restrict our business to Indian companies alone, then it follows that it would be bad both for the company as

1 P.M. also for the people. The total volume of premiums in this country is small, and the risks are sometimes very heavy. An advancement of rates is therefore bound to follow. The best course, therefore, for us in this country to adopt is to work hand in hand with those larger offices that are operating here and gradually to build up the portfolio in such a way that they get a share of the business from all over the world and which will enable us to maintain our present rates and even reduce them. I have been a director of the largest composite Indian company since its inception and I know I am revealing no secret when I say—for you can find this out from its annual reports—that even this company is indebted to foreign companies because the greater part of its fire income comes from outside India, and the premium which it gets from outside countries is larger than what this company gives to such foreign companies.

It is obvious that many British and British Empire companies are very powerful, and they certainly are powerful by reason of the fact that some of

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them have existed for a century and a very few others for as long as two centuries. What is the use of our now trying to bolt the door against them? That will not help the situation at all. But if we now try to build up strong companies without antagonizing them, we shall do better for ourselves. Now the restrictions which were proposed at one time, that all business should be given preferably to Indian companies only, would result in raising the rates and making the public pay more than what they are doing at the present moment. Honourable Members of this House will be surprised when I tell them that the best source of fire insurance premium revenue in the Bombay Presidency comes from the cotton mills, but the total premium on the cotton mills of Bombay does not exceed Rs. 15 lakhs. The next largest item is raw cotton, on which perhaps the premium income is two-thirds of Rs. 15 lakhs, viz., Rs. 10 lakhs. Between these two, it is about Rs. 25 lakhs. If you take the other sources in the Bombay Presidency, I make bold to say that there is not more than Rs. 50 lakhs of premium in the whole Presidency, which cannot be called large considering the size of the Presidency, and yet people talk of crores of rupees being drained away by foreign insurance companies.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) :
What about the other provinces ?

THE HONOURABLE SIR PHIROZE SETHNA : I said in the earlier part of my speech that I was only giving instances of facts and figures with regard to the Presidency with which I am personally acquainted.

There is one more fact which is a common place of technical knowledge, and it is this, that even during the best boom years fire insurance companies made perhaps ten per cent. on the gross premiums and not more, but insurance companies on the whole would be more than satisfied if they made a profit of only five per cent., and yet some Indian companies, as the Honourable the Law Member has stated, appear to suffer from a disease which is peculiarly Indian for they pay away as much as five per cent. on gross premiums to managing agents, and for doing what? Practically nothing. These managing agents have no technical knowledge. These managing agents have never had to put their hands into their pockets and shell out money, as is certainly done by the managing agents of textile companies. There are instances of managing agents of textile companies having paid out lakhs and lakhs of rupees. I therefore congratulate the Honourable the Law Member on his introducing a section whereby this immoral source of gain will not hereafter be continued. I have, Sir, already said that if the Government of India had chosen to appoint one or two Indians with a practical knowledge of insurance business to the Assembly during the passage of the Bill by that body, the mistakes which I will refer to hereafter would not have been committed in the Bill as it has emerged from the Assembly. Let me now give you just a few instances.

May I refer to clause 3 (2) (e)? In that clause it is laid down that a certified copy of the prospectus by a certified actuary must be produced, which implies that the actuary must give a certificate even in regard to other kinds of insurance business than life. That perhaps is a slip, because you do not want actuaries for fire, marine or accident insurance business and that is a mistake which I am sure will be corrected by Government themselves by an amendment to be proposed from them. An insurance actuary is neither capable of certifying nor is he qualified to, give any certificate in regard to general business.

Clause 19, sub-clause (2), requires the insurer to furnish to any shareholder or policy-holder who makes the request a printed or certified copy of the various accounts and statements which have been filed with the Superintendent. If the insurer fails to meet the request within fourteen days in the case of an Indian company, it will become subject to the heavy penalties prescribed in clause 93. Sir, returns made to the Superintendent are voluminous. A glance at the Schedules will verify this statement. For an insurance company to be obliged to supply to any policy-holder printed or verified copies of this huge mass of material involves a cost which might easily be enormous. The sub-section is dangerous to all insurance companies and should be removed.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : But they will get a fee ?

THE HONOURABLE SIR PHIROZE SETHNA : They will get a fee of six annas a hundred words but that is not nearly enough. Sir, it is sufficient that the statements and returns made to the Superintendent are open to public inspection.

The British Empire companies in all fairness must be treated with greater consideration. If in such Empire countries Indian insurance companies are not subjected to any hardships, we must not impose disabilities upon them in India. If the laws of any Empire country on the other hand discriminate against Indian companies, then no one will complain if you retaliate against them, and in fact we should do so ; but to impose such conditions against Canada, for example, whose laws treat our companies on identically the same basis as purely British companies, is an attitude which is absolutely unwarranted. In the name of fairness and justice, therefore, I would appeal to the House to support an amendment which will seek to remove this discrimination.

I now come to clause 35 to which the Honourable the Law Member has referred at some length. I am very glad that even at this late hour the Honourable the Law Member has discovered that giving 30 per cent. commission to agents doing other than life insurance business is something uncalled for and which they themselves never expected. I have the authority of the Bombay Insurance Brokers to say that they will be more than content if they get 15 per cent. I would certainly myself have preferred 10 per cent., but the Honourable the Law Member after what replies he has received from different sources has come to the conclusion that 15 per cent. would be a proper rate to pay to agents doing other than life business, and I certainly agree with the proposed change and this change is absolutely necessary. To show the inconsistency between payments to fire agents and life agents, let me explain that to you by means of an example. In life insurance it is proposed to pay 45 per cent. in the first year and 5 per cent. in subsequent years. It is proposed to pay 30 per cent. uniformly on fire insurance. Now, a life insurance agent is finished with his business once he has introduced a customer to the company because in subsequent years the agent has not got to go to the insured. The insured pays the premium and automatically the company pays the agent his renewal commissions. This will go on as long as the policy is on the books of the company. Let my example be restricted to only four years. In four years a life insurance agent will, therefore, be getting 45 per cent. for the first year and three times five per cent. or 15 per cent. more for the next three years, namely, a total of 60 per cent. What will the fire insurance agent get ? He will be getting four times 30 per cent. or 120 per cent. in that period of four years for doing perhaps even less business than what the life insurance agent did. It may be said that the fire insurance agent has to go every year to the

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insurer and beg for the continuance of the business, but we know from experience that large insurers generally employ one and the same broker for years together. The man has only got to go to the insured and tell him: "well, Sir, your insurance is due on the 1st of next month", and nine times out of ten he gets order to renew business. Therefore, if you give him 30 per cent., you make him a present which he does not expect and which will lead to corruption, corruption in the sense that the agent will be tempted to offer a rebate to the insured himself and the insured himself will be induced to ask the agent to give him a rebate in spite of the penalty imposed in the Bill, because they can well afford to pay these penalties. These penalties are fixed at Rs. 100 whereas they can get so very much more by rebates. Take for example, the case of the insurance of a mill the premium on which amounts to Rs. 10,000. You make a present of Rs. 3,000 to a fire insurance agent at the rate of 30 per cent. for just introducing the insured to the company. The insured is bound to go to some company to insure. People in India as a rule are not very keen in insuring their properties but they are bound to do so if they have borrowed money on their buildings or merchandise. They must insure and therefore in the case I have quoted you are making a gift of Rs. 3,000 where one-tenth of that would have sufficed. The Honourable the Law Member has hit at the very root of this difficulty by telling us today that he will introduce an amendment himself reducing this rate of commission from 30 per cent. to only 15 per cent.

Now, Sir, he also referred to the commissions to be paid to life insurance agents. In the Bill it is proposed that 45 per cent. commission will be given on the first premium to the life insurance agents and five per cent., on renewals. I leave out the smaller companies, who are given some concession in this matter for a few years. But I contend—

THE HONOURABLE THE PRESIDENT: Order, Order. I presume the Honourable Member will take some time to finish?

THE HONOURABLE SIR PHIROZE SETHNA: I will not take more than 10 minutes.

THE HONOURABLE THE PRESIDENT: I think this will be a convenient time to adjourn the House for Lunch.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

THE HONOURABLE SIR PHIROZE SETHNA: When we dispersed for Lunch, Mr. President, I was explaining the differences in the amount of payment to fire and life insurance agents, and pointed out that fire insurance agents would be paid at a far higher rate, far more than they deserved, if we paid them at the rate of 30 per cent. I am glad to find that the Honourable the Law Member himself proposes to change this rate by an amendment. He then referred to commissions of life insurance agents. He told us that he had heard from several quarters that 45 per cent. was a high rate and it should be reduced to 40 per cent. In this connection I should like to make another suggestion. If I were to insure my life and if I applied for two policies, one calling for 20 years' premiums,—I know I would not met a 20 year policy because of my age,

but assuming I would,—and the other for ten years' payments, the House will recognise that the premium that I would be paying on the ten years' policy would be practically double of what I would pay the company on the 20 years' policy. I would ask, therefore,—is it consistent to pay on both these plans of insurance the same rate of commission, namely, 45 per cent. or 40 per cent., whatever is decided upon? I would therefore suggest that there should be a sliding scale of commissions to life agents to be worked in this manner. On all policies which call for 20 year payments or longer, the commission may be 40 per cent.; on all policies which call for 11 year payments to 19 year payments the commission should be 30 per cent.; and on all policies calling for 10 year premiums or under, 20 per cent. That would be an equitable arrangement and the rate of commission will not be inordinately high. I am aware that even 45 per cent. is not acceptable to some companies and they would like this figure to be raised.

THE HONOURABLE THE PRESIDENT: Has the Honourable Member given notice of any amendment to that effect?

THE HONOURABLE SIR PHIROZE SEIHNA: I have not yet, Sir; I mean to. I am aware that even 45 or 40 per cent., whichever is the rate of commission decided upon, is not acceptable to some as being sufficient. But I think they will find that if there is uniformity introduced in the Bill, their agents will be satisfied with the rates that will be prescribed. If my proposal is accepted, namely, 40 per cent., 30 per cent. and 20 per cent., agents will be satisfied because they will now be able to retain the full commission for themselves as they will no longer be giving rebates. I come now to section 37—the licensing of agents. Anybody can get a license on payment of Re. 1. This will result in the country being flooded with tens of thousands of agents, which I do not think is very desirable. I think the Bill should devise ways and means whereby the number of agents might be limited to a respectable number, and if that is done not only will the business be conducted by proper parties but will also be worked on right lines. In this section there are certain disqualifications for the granting of licenses to agents. I notice that one reason in particular is not mentioned therein, namely, if a man is found to have given rebates that ought to be included as one of the reasons why in the future he is not given a license. If it is proposed to insert in the section that not on the first offence but after the second or third offence he may not be granted a license, that might be a good move. But something in that direction should be done.

Then, Sir, in section 39 very considerable latitude is given to the life insurance policy-holder, so much so that it will result in a larger number of frauds than are prevalent today in the history of life insurance in this country.

British Empire companies in all fairness must be treated with greater consideration if in such Empire countries Indian insurance companies are treated fairly. Again take the case of Canada. Whilst they insist on assets against Canadian liabilities being kept in Canada they do not compel you to invest such assets in Canadian investments. This is a point to which I draw your particular attention.

Section 43A requires that upon lapse of the policy the insurer shall give notice of the amount required to change the policy into a paid-up policy. It is difficult to understand what is intended by this section. Section 100A stipulates certain non-forfeiture benefits designed to prevent loss to a policy-holder who has paid premiums for at least three years. If reduced paid-up assurance is granted as an automatic non-forfeiture feature there are certainly no payments required from the policy-holder. Section 100A prescribes that a surrender value must be available or the policy at once becomes non-forfeitable. Section 43A merely conflicts with the whole of section 100A and in my opinion should be deleted.

[Sir Phiroze Sethna.]

I next come to section 43B. This provides that for a fee of one rupee the insurer must supply to any policy-holder on demand a certified copy of the questions and answers contained in his proposal for insurance and of the medical report. It is extremely difficult to understand the reason for this provision. It seems to serve no useful purpose whatever and will be certain to occasion all insurance companies, Indian as well as non-Indian, and their medical advisers a good deal of embarrassment. The medical report must be confidential; its value would be seriously impaired if it were not. The section is bound to cause all insurers much needless expense and will be certain to lead to litigation. The medical report is the private property of the insuring company. Whether that application is to be accepted or otherwise depends entirely on the medical report. The findings of the doctor cannot and should not be communicated to the applicant; but this section provides that it shall be so done. This will mean that the medical consultant will certainly have very great hesitation in giving what he knows are correct answers on the case which he examines. I would therefore remove this clause, but if it is insisted upon that the applicant should be furnished with a copy of what he has said to the doctor as answers to questions put to him by the doctor, it might be supplied to him, but not the findings of the doctor himself. A doctor asks a prospect if he has suffered from one disease or another. That answer might be conveyed to him and such like answers. But to expect the examiner's report and findings to be given to the applicant is outside the nature of life insurance business and I trust this will receive the Honourable Law Member's serious attention.

Towards the close of his speech the Honourable Law Member dilated on the subject of chief agents. He observed that he would not object limiting their commissions but for the reasons which he advanced and with which I agree and which I propose to supplement by some other reasons, he thought this ought to be left alone. I entirely agree with him. This is a sort of bogey with some insurance people, that they would like to do away with chief agents because it suits their book. But chief agents can do no harm and have done no harm. One of the reasons, as the Honourable Sir Nripendra Sircar explained, according to these critics was that if there was no limit imposed chief agents would ask for and get more and more commissions. Whatever the case might have been in the past, after the Bill is passed that is not likely, for the very good reason that if I as a chief agent applied to my principal to give me more I would have to advance reasons therefor. I could not advance the reason which I can today, that such and such a company pays to its chief agent x per cent. and therefore I should get x per cent. *plus y*. If the Bill is studied closely, and I hope it will be, then it stands to reason that no chief agent can ask for more than a fair percentage for himself as his profit. He can only ask for something reasonable over and above the 15 per cent. which he will pay to licensed agents. Now, what that extra is to be, you cannot define in the Bill, for a very good reason. There are chief agents and chief agents. It may be necessary to distinguish between fire chief agents and life chief agents. But whether you do so or not there is this point of difference, namely, that some chief agents have to work far more than other chief agents, and in consequence have to employ a staff which the other chief agent is not required to do. Let me explain my meaning. There is a chief agent of company A. His headquarters are in the same place where is situated the office of the manager of the company. This agent is only required to get business and pass it on to the office manager and all details are done by the manager's office. So that, this chief agent may be content with only one clerk or for the matter of that not even one clerk. Another chief agent works on different lines: he is independent of the manager of that company in the same station. He has to work out

all the details of the business : he has to prepare the policies and sign them : he has to prepare bordereaux and to do so many other things which means that he may have to employ a dozen clerks. I would not like to mention names, but there are chief agents answering to both these descriptions ; and I ask, is it fair to put both these chief agents on the same plane and pay them a uniform rate ? It certainly is not right, and therefore that is a very important reason why chief agents must be left alone so far as their emoluments are concerned, and I hope that the Honourable the Law Member will stick to his resolution in this respect. Again he referred to the definition of a chief agent. This is something very difficult to define, which is another reason for leaving it alone.

The Honourable the Law Member referred to the advocacy of the European Group on behalf of Canadian companies. I think the Canadian companies have reason to be grateful to them for what fight the European Group may have put up with the Law Member in this connection. All I would like to say is that if they thought it right to plead for the cause of Canadian companies, it is because they felt that they were perfectly justified in doing so, and these restrictions, whether they are imposed against other dominion companies or colonial companies, should certainly not be proposed in regard to Canadian companies. I say that Canadian companies will now be required along with the others to have their investments full 100 per cent. in Government securities. May I know what is to happen to those companies if they have got buildings in India in which they have invested perhaps lakhs and lakhs of rupees ? I mentioned this morning and gave figures in regard to the business and holdings of the Sun Life Assurance Company of Canada in this country. Among their holdings, they have property in Bombay which is worth lakhs of rupees. Will the Honourable the Law Member tell the House, are they to include that in the 100 per cent. of their assets or should that be over and above the 100 per cent. of assets as required to be invested in accordance with section 26 (2) ? There are several reasons why there should be an exception in the case of Canadian companies.

Then the Honourable the Law Member also referred to a particular amendment which by arrangement was to be introduced in the other House by Mr. Bhulabhai Desai, but which for some reason or another was omitted, and I am very glad that he proposes to introduce that here himself. That arrangement was arrived at particularly between those two gentlemen to whom Sir Nripendra Sircar made very flattering reference this morning—I mean Mr. Sturgeon, the actuary of the Royal, and Mr. Vidyathan, the actuary of the Oriental : it was after mature consideration that they had arrived at a certain plan of action and Mr. Bhulabhai Desai was to move that amendment ; unfortunately for reasons best known to the President of the other House, that was not allowed and I am sure that mistake will be rectified in this House and that amendment will be introduced and passed in this House.

I think I have dealt with most of the sections which do require some alteration in this House. Government might have liked that the House should pass this Bill as quickly as possible, so that it may become an Act at an early date ; but I am afraid, after what I have pointed out or rather after what has fallen from the Honourable Law Member himself and the references which I have made to certain sections which require alterations—and judging from the amendments which have already been received and which will yet follow, I have no doubt that the Bill will have to be very considerably amended, and I trust it will be amended in a manner which will meet with the acceptance of the general public, as also the insurance companies before it is passed.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, after so much labour and learning has been bestowed on this Bill in the other House, and not being myself familiar with the law and practice of insurance business, it is with great diffidence that I rise to speak on the subject today. But having an open and unbiassed mind, I venture to make some suggestions on the Bill now before us. On going through it I find there is hardly anything in it in the nature of what is called substantive law dealing with the rights and liabilities between the insurer and the insured, and hardly any handling of the insurance business other than life insurance in the Bill. There is no mention about whether premiums paid may be allowed to lapse or not and, if so, on what grounds. Although policy-holders have been allowed to choose some directors from amongst themselves they have been given no interest in the insurance business whatever to serve and direct, although the working capital of the business has been largely contributed by them. They ought to get a share of the profits in proportion to the capital contributed by them.

Many hard words have been said about the managing directors. But for him, many of the now flourishing concerns might not have come into existence at all, and the system of managing agency has been sought to be abolished in the course of a few years entirely, although insurance business has not yet been able to extend its operation throughout the length and breadth of India. We all know of the adage of "Too many cooks will spoil the broth". Especially in this country, insurance business being one of the most complicated of all business, needs most the fostering care of efficient individuals. Abuses of the managing agency system are no doubt to be checked and ample means ought to be adopted for it. But the entire abolition of the system will, I am afraid to submit, crush and hamper the growth of insurance business in this country of poor and inexperienced people. Moreover, the definition of the term "managing agent" is bound to lead to discrimination in favour of English companies and to the prejudice of Indian companies. Most of the English companies carry on their entire business here through agents who are virtually, though not in name, their managing agents, whereas Indian companies will not be able to do so simply because of the word "whole" in the terms of their managing agents' employment, although the managing agents may entirely be acting under the directions and control of the directors. I therefore submit that the managing agency system should be allowed to continue with limited remuneration and restriction of its powers to control the shares and directors of the company.

There is no provision in the Bill for insurance business being carried on in India by individuals, *vide* section 2, clause 8 (b), as in the previous clause, although during the course of the discussion of the Bill in the other House it has transpired that there are persons in the Bombay Presidency who carry on such business.

A large amount of preliminary deposit has been provided for which is likely to weed out and prevent the growth of small concerns suitable for a poor country like ours. When a large portion of the premium income has been required to be invested in approved securities, they might as well have been directed to be kept in deposit with the Reserve Bank for the purpose of securing the policy-holders instead of the provision of a preliminary deposit of a large sum being imposed on the insurers at the very beginning of their existence.

The procedure for the prevention of granting any rebate is also defective. While secret rebate has been disallowed, you can do so openly and thereby enter into cut-throat competition. It is only the poor insurance agents who

have been prevented from granting any rebate from their small remuneration for the purpose of securing some business in competition with other poor insurance agent and provision has been made for punishing him only and the assured for the violation of this law and not the insurer. The law in this respect ought to be wholly reversed and insurers ought to be prevented from offering cut-throat rebates and punished for its violation letting off the poor insurance agents to eke out their living in any way they can.

Then a system of licensing of insurance agents has been introduced and a fee levied upon these poor people perhaps for defraying the costs of the office and establishment of the Superintendent of Insurance. If any money has to be raised, it ought to be raised from the insurance companies and not from these poor people. Moreover, the adoption of the system of licensing will involve the introduction of a system of surveillance throughout the length and breadth of the country and the help of the police is bound to be sought for by the Superintendent of Insurance; and although licenses are provided to be granted as a matter of course, we all know what its effect will be in practice when police help has to be sought in the matter and political handling of people is sure to follow. The liability of employing proper agents ought to be thrown on the insurers requiring them to keep proper registers and to warn their customers not to pay any money through the agents and to intimate to them of the termination of the services of the agents through whom their business had been transacted. The provision for the forfeiture of payment of the renewal commission to the insurance agents is also very hard. So far as the particular business is concerned, they have already earned the commission and ought to get it, whether they continue in service or serve elsewhere; and these poor people should not be made the bondslaves for all their lives so as not to be able to go elsewhere.

Then I come to the question of discrimination between Indian and foreign concerns. At the outset may I state that I have not been able to understand what is meant by a company being domiciled in India as contemplated by section 2, clause 8 (a) (ii)? Neither in the Indian Companies Act nor elsewhere, so far as I have been able to find, is there any provision for the domicile of a company. I therefore submit that this clause should be omitted—

THE HONOURABLE SIE NRIPENDRA SIRCAR: You will find it in Palmer as to what the domicile of a company means. It means the place where it is registered.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: I am confining myself to the Indian statutes.

THE HONOURABLE SIR NRIPENDRA SIRCAR: There is nothing in the English statute either.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: As regards non-Indian companies, I venture to submit, as I did on a previous occasion, that we have every right to discriminate against them. When other dominions within the Empire discriminate against us, the right to retaliate has been conceded to us by the Government of India Act. The United Kingdom has been sought to be excluded on the ground that she does not discriminate against India. But is that a fact? During the discussion of the Sugar Convention it had transpired that the United Kingdom imposes a higher import duty upon Indian sugar than upon sugar imported from some of the colonies. As that is so, we have every right to discriminate against the United

[Mr. Kumarsankar Ray Chaudhury.]

Kingdom concerns in regulating our law of insurance. Besides this, whatever might be the political position of the different parts of the British Empire, so long as that Empire subsists, the legal position—and that is the position which can only be recognised when matters are taken to law courts—is this that we are all subjects of the British Empire and all judges and public servants in the Empire are His Majesty's judges and servants; and if any violation of any local law is effected by an Indian, it is His Majesty's servants and judges that haul up and punish an Indian. Therefore, if discrimination is allowed within the Empire, we Indians have every right under the Government of India Act to discriminate against other subjects of the Empire, no matter where they come from. I go further and say that the provisions of the Government of India Act are illegal and without jurisdiction and my reasons are these. Whatever might be the constitution of the United Kingdom unwritten as it is, ours is a written constitution based upon two documents and it is upon their actual terms that we have to fall back in deciding the question. Of these, the first is the Government of India Act of 1858—

THE HONOURABLE THE PRESIDENT: May I ask you to confine yourself to the Insurance Bill?

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: I am submitting that we have every right to discriminate, upon a true construction of the Government of India Act.

THE HONOURABLE THE PRESIDENT: You have said that already.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: I am now giving my reasons.

THE HONOURABLE THE PRESIDENT: You please now confine yourself to the Insurance Bill.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Of these, the first is the Government of India Act of 1858. That Act, I submit, is an enabling Act, enabling the constitutional monarch of the United Kingdom to assume the sovereignty of another country, viz., India and by that Act the sovereignty of India vests in Her Majesty alone and is to be exercised in her name by one of her Secretaries. That Act lays down further that four of her principal Secretaries and four Under Secretaries are to be members of the House of Commons and the fifth to be appointed is to take charge of the affairs of India, with his pay coming from the coffers of India. He is therefore by implication not to be a member of the House of Commons. The only reservations made in favour of the British Parliament are these, namely, first an annual report of the expenditure and revenues of India is to be placed before the British Parliament, rules regulating recruitment of civil servants in England have to be laid before it, employment of the army outside the limits of India, except for her defence, and spending money on it must be by consent of Parliament.

THE HONOURABLE THE PRESIDENT: This is altogether superfluous and outside the scope of the Bill. Will you please confine yourself to the Bill?

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: This was perhaps due to the fact that money for this purpose could not come out

of the revenues of India and had to be borne by the British people. It nowhere appears in the Act that the British Parliament has the right to exercise any powers over the administration or affairs of India, and one does not know what would have been the aftermath of the sepoy mutiny if the Queen were to proclaim that every Tom, Dick or Harry or to use better names, Fox, Wolfe or Lamb sitting in the British Parliament were to be her partners. The executive government of the Government of India was vested in the Secretary of State for India, who, as I have shown, was not to be a member of the House of Commons and whose salary was not to come from the British coffers and not in the hands of the British Cabinet. He was to be assisted by a Council composed of members selected by His Majesty in Council who were not to be members of the House of Commons. Plenary legislative powers were soon after vested in a Council in India and Sir Charles Wood in his opening speech in the House of Commons on 6th June, 1861, spoke strongly against the British people ruling over India in the following words :

“ All experience teaches us that when a dominant race rules another, the mildest form of government is a despotism. It was so in the case of the democratic republic of Greece and the more aristocratic or autocratic sway of Rome and it has been so I believe at all times and among all nations in every part of the world ”.

And these powers I submit cannot now be curtailed as is sought to be done by section 110 of the present Government of India Act. The highest judiciary in the United Kingdom, namely, the House of Lords, was also not authorised to deal with the judicial administration of India, that being vested in Her Majesty's Privy Council. This state of things continued I believe till 1919 when for the first time and that in the preamble to the Act the British Parliament asserted its rights over the administration of India and placed the salary of the Secretary of State upon the British estimates. But the people of India never accepted that preamble—

THE HONOURABLE THE PRESIDENT : Order, order. I have told you three times to confine yourself to the Bill and if you persist in not doing so you will not catch the eye of the Chair the next time.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : I am submitting these are my reasons—

THE HONOURABLE THE PRESIDENT : They are altogether outside the scope of the Bill. Will you please confine yourself to the instructions I have given ?

THE HONOURABLE MR. HOSSAIN IMAM : The Honourable Member is giving expression, Sir, to an unheard of interpretation of constitutional law.

THE HONOURABLE THE PRESIDENT : We are not concerned today to hear about constitutional law. We are here to discuss the Insurance Bill. Will you please proceed with the Insurance Bill, otherwise I will ask you to resume your seat.

THE HONOURABLE MR. RAMADAS PANTULU : In the other House, Sir, a good deal has been said about the Central Legislature having power to deal even with United Kingdom companies and a good deal has been said about the scope of the discrimination sections of the Government of India Act.

THE HONOURABLE THE PRESIDENT : The first part of the Honourable Member's speech was all right and I allowed it—probably you were not

[The President.]

here to hear that? But this other part is entirely superfluous. Please proceed.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Be that as it may, even under the present Government of India Act we have ample power of passing any legislation that we like, and if it contravenes any provision of the Government of India Act it shall only to that extent be void and inoperative. That being so, what I venture to submit we should do is to see in the preamble of the Bill that we do not propose in any way to touch the legal effect of the provisions of the Government of India Act and provide discriminating legislation against foreigners, leaving those who are to be deemed Indians under the Government of India Act full scope to be treated if they legally can or like to be treated as Indians like us.

THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA (West Bengal: Non-Muhammadan): Sir, as regards this particular Bill under discussion I do not think there is much to be said against it. To my mind this Bill is one of the best gifts of the present Law Member to the country. I admit that this Bill falls far short of expectation of certain sections of interested parties, but taking the Bill as a whole it has met with general approval of all the major organised political parties in the country. Sir, it is no mean achievement on the part of the Honourable the Law Member to carry the Congress Party and the European Group with him into the same lobby in the lower House. There is also another section who wanted to have some sort of restrictions put on the foreign companies working in the country in order to prevent them from working in competition with indigenous companies. So far as the Law Member was concerned, it appears to me he was all willing to help Indian companies against such competition from non-British companies, but owing to the existence of section 113 of the Government of India Act it was beyond his power to put that sort of control as was desired on non-British companies working in India.

Sir, we have heard both inside the Legislature and outside that Bengal can produce only Law Members, insinuating thereby that there is a dearth of genius in Bengal. I therefore feel proud to say that Bengal can produce not only Law Members but also men of legal genius of the type of Sir Nripendra who can produce such gigantic and memorable pieces of legislation like those of the Indian Companies (Amendment) Act and the present Insurance Bill which is also going to be passed into law very soon. Before I conclude I take this opportunity to thank my esteemed friend Mr. Sushil Sen, on whose memorable report the present Bill is based. I am sorry to miss him on this occasion owing to his illness. I hope and pray that he will recover soon from his present sickness.

Sir, I whole-heartedly support this Motion.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I feel some diffidence in entering on a discussion of this subject following on two distinguished Members of this House, one of whom, the Honourable the Law Member, has made himself so expert during the last months, while the other, the Honourable Sir Phiroze Sethna has spent the whole of his life making himself an expert.

I think the main principle in matters of this kind is that we should avoid as far as possible interference with business of any kind and that any laws

we pass controlling business should be demonstrably necessary and advantageous. The main consideration in connection with insurance legislation is, I suggest, the interests of the insuring public. Anything that is really in their interests is I think also in the interests of good insurers, and we have no interest I think in bad insurers. The main underlying principle of insurance is that a number of persons agree to share their risks with a view to avoiding any of them suffering undue individual losses. Anything therefore which makes it more difficult to spread risks widely is to be deprecated, as is also anything which tends to unsound insurance schemes of any kind. It will be realised from what I have said that there are certain sections in this Bill which I do not consider sound. Take, for example, the proviso to clause 35 (2). In my opinion it is an unsound principle to interfere by statute with the commission or other remuneration to be paid by any one party to another party, but the proviso is even more undesirable. Having fixed the commission or remuneration to canvassers in the case of life insurance business at a maximum of 45 per cent. of the initial premium and five per cent. on renewals and in the case of business of other classes at 30 per cent. of the premium, the proviso goes on to provide that during the first ten years of business an insurer may pay 55 per cent. instead of the maximum generally applicable of 45 per cent. and six per cent. in respect of renewals instead of five per cent. This seems to me to be bad in more ways than one. In the first place it is discrimination and of all types of legislation discriminatory legislation is probably one of the worst. That is not all. It is bad both for the insurer and for the insured. Normally it is during the early years of the insurer's career that it is most difficult to afford to pay high commissions and the provision must to that extent tend towards new insurers becoming less sound financially than they would otherwise be. Then the higher rate of commission must tempt canvassers to encourage those intending to insure against a risk to insure with new rather than with old and better established companies. It tempts the agent not to give the best possible advice to those intending to insure which it is his duty to do. For my part I would have liked to see any limitation of commission avoided, but my Honourable friend the Law Member has made it plain in another place that he considers it necessary, or at any rate desirable. That being so, I bow to his considered opinion. Nevertheless I cannot feel that this proviso is a proper one or one which ought to be allowed to become law.

My next point is the question of the actual percentage to be fixed as the highest commission to be paid. In a case of this kind, the general tendency is for the maximum to become the minimum or fixed rate and I entirely agree with what the Law Member said this morning that 30 per cent. should be reduced and I think 15 per cent. is a very much sounder figure. Too high a commission leads to unnecessarily high premiums and is generally against the interest of the insuring public.

Then, on the question of licensing, as the Bill now stands, it will be open to anyone who is of age, is not of unsound mind and has not been convicted of certain classes of crime to apply for a license. That means that hereby everyone can be an insurance agent and there must be a tendency for innumerable people to take out licenses in the hope of getting commissions which they are not really going to earn. What I suggest we are aiming at is sound insurers and so far as insurance agents are concerned those who do earn their commission. At one stage in another place there was a provision in clause 37 (2) under which this matter was dealt with.

There are a number of other points to which I think attention needs to be given, but in many cases this can most usefully be done when dealing with

[Mr. R. H. Parker.]

the clauses. Some of them are purely points where clarification is desirable. There are places where reference is meant to life insurance only and where that should be made plain. Clause 43A seems to me to be inconsistent having regard to the terms of section 100A (3). It seems possible that section 43B might be construed to mean that a proposer for life insurance would be entitled to the doctor's report to the insurer. I imagine that this was not in anybody's mind when the clause was drafted, but in any event I think it is proper that a doctor's report in these circumstances should be confidential as between him and an insurer. I doubt very much whether it would make for the happiness of mankind to see what a doctor advising an insurance company says about a proposer. Certainly a provision of this kind could hardly tend to satisfactory reports being made by doctors and unless the best possible information is available as to the prospects of the life of a proposer, obviously it becomes much more difficult to arrive at a fair premium to charge an individual. In other words, if we are thinking, as I say we ought to think, of the interests of the insured, we must provide for the doctor's report to be confidential.

There seems to be some misunderstanding on the question of the share which non-Indians have recently had in Indian insurance business. It has frequently been suggested that they somehow succeed in getting the best business and in making very large profits out of it. At any rate at the present stage it seems to be in the interests of India that so far as insurance is concerned she should not be thrown entirely on her own resources. Generally speaking what you want is as many good insurers as possible willing to underwrite risks in the country. Actually a number of first class insurers have recently had such unsatisfactory returns from their Indian business that some of them have taken and others may take very little interest in it. That is a danger which we want to avoid if possible.

Then the Bill contains one or two provisions which are mandatory but which might in certain circumstances be disadvantageous to India. It is not, as I have said, in the interests of India to exclude good insurers. Section 3, sub-section (3) makes it mandatory on the Superintendent of Insurance to withhold registration or cancel registration if he is satisfied that in the country in which the insurer has his place of business or domicile Indian Nationals are debarred by the law or practice of the country from carrying on the business of insurers or that any requirement imposed on such insurer under the provision of section 53 is not satisfied. I think it would be wiser to make this provision permissive, leaving it to the Superintendent of Insurance to exercise discretion in the matter.

There seems to be some doubt as to what the words "Indian National" mean but I hope that the Honourable the Law Member will be able to clarify the position and that he will find an early opportunity of doing so.

Clause 53 is very wide and might lead to great inconvenience and I suggest that it also ought to be permissive.

The Honourable Sir Phiroze Sethna this morning referred to the comparative greatness or success or goodness of American insurance companies and British insurance companies. He rather indicated that Americans were outstanding in connection with life insurance as compared with British companies. I do not know whether he knows, but I have from a very first class source information to the effect that the American companies in a comparatively recent effort to start new types of insurance policies started a policy

called—what Sir Phiroze Sethna knows very well—a “double indemnity policy”, which covers not only death but also such things as sickness, and I am told that under that scheme the American companies lost no less than £19 million sterling. That is an indication I think that the Americans are perhaps a little rash where the British companies are a little conservative.

THE HONOURABLE RAO BAHADUR SIR A. P. PATRO (Madras: Nominated Non-Official): Sir, if there is some hesitation on the part of the Members to rise and take part in the debate, there is full justification for that. After the very clear exposition of the legal aspects of the problem from the Law Member and the expert criticism from that very experienced gentleman, the Honourable Sir Phiroze Sethna, one feels whether there is very much left to discuss in this Bill, except to clarify one's views when the amendments are considered seriatim. Therefore, Sir, if the House is reluctant today to come forward and to express its views freely, it is because of the position that has been created by the two able speeches, on one side by the Law Member and on the other side by Sir Phiroze Sethna.

There is no doubt that the Honourable the Law Member, like an astute and able lawyer, anticipated all the difficulties which were pointed out by Sir Phiroze Sethna. He has explained the position very clearly and said, whatever may be argued on behalf of the big companies, he has to hold the scales even between the younger companies and the big companies. No doubt Bombay, represented by Sir Phiroze Sethna and ably represented, has advanced arguments which would cut the very root and the very existence of some of these younger and junior companies. But the Law Member has very ably and lucidly defended the position of the younger companies. But this Bill has been so long discussed and so well in the lower House and most of all by the expert advisory committee which sat over the report of the officer who investigated into the matter and who we are sorry is not here today, that we may well say that the experts have considered the matter. Sir Phiroze Sethna complained that if one or two experts had been allowed to sit in the lower House and give their advice, there would not have been room for as much criticism as he has made today. I am afraid he forgot that the Advisory Committee members which considered the report of Mr. Susil Sen were all well versed in insurance business. And he as an expert has not been able to contribute very much to it except pointing out from the point of view of big business what it ought to be. Of course, it was his plea that all big business should be supported, the American and Sun Life Assurance Companies and the New Life Assurance Company, which are very big companies. On their behalf no doubt he was justified in advocating that their claims should be better recognised in the Bill. But, as I said, it is not a Bill for the big companies. It is a Bill for all. It is a comprehensive measure for the first time placed on the Statute-book. The measure not only relates to the Life Insurance Companies, but includes also the general and special insurances. Therefore, for the first time after 25 years since 1912, we have a Bill placed before the public comprehensive and including all interests both Indian and non-Indian. The merits of this Bill need not be stated here at very great length. The Bill affects not only the Indian and non-Indian companies but also those that are existing and have yet to come into existence. That is the great merit of this Bill. It makes no difference between these two classes of insurance business. Now, the Bill of 1928 referred only to certain matters and the Bill of 1912 referred only to certain other matters. But this Bill brings in all together and bases it on the experience gained in the last 25 years. It has been said by Sir Phiroze Sethna and others in criticism of this Bill that it is too much interference of the Government in matters

[Rao Bahadur Sir A. P. Patro.]

of business, which should have been avoided. But the report of the special officer showed that a great deal of improvement is necessary in the matter of companies that have been recently started, that their financial condition has not been such as would justify the public to wait for their final breakdown. And the blue book further indicates that some of the companies which have been formed in recent years are almost bankrupt, and are living on the amounts that have been contributed by policy-holders. So in order to consolidate the position of these companies and to make them more sound financially, it is necessary that all of them should be asked first to be registered. The first thing which this Bill wants to set right among matters that are not altogether satisfactory is that all companies, insurance and general and special companies, all should be registered, whether they are Indian or non-Indian. That is the essential condition for carrying on business in British India. Not only that they are to be registered, but before registration they are required to file certain documents and when these documents are produced and the Superintendent is satisfied that they are in order they are registered as a matter of course. There is no difficulty there. The difficulty comes in where the necessary documents are not available and are not filed before him.

Then the next important fact in this Bill is the appointment of the Superintendent of Insurance. It is a very responsible appointment and very wide powers are vested in him. It is there the criticism has been advanced that there is too much interference of the Government in the matter of business. Of course, reference has been made to the American system and the Canadian system where there is very rigorous exercise of control over insurance companies and the British system of minimum control and maximum publicity. That is true, but this Bill very happily effects a compromise between the two principles and in giving powers to the Superintendent it is very careful and cautious. Every time it is hedged round with safeguards, namely, that in a case where extreme steps have to be taken it must be referred to the Government of India for final sanction and an appeal to Court is provided. Powers are given, no doubt, to him to call for accounts, the work of the companies and to insist on their filing the necessary documents and information in order to enable him to see whether their financial position is sound, whether accounts are properly kept, whether in all firms the interests of the policy-holders are safeguarded.

The next feature of this Bill is that the interests of the policy-holders are very much safeguarded by starting this Life Insurance Fund. The deposit is one aspect of it and it has been criticised that the deposits should be the same in connection with foreign companies, which I will deal with later on. But so far as deposits are concerned, it is necessary that existing companies or companies to be formed have to make deposits with a view to seeing that they are financially sound. Now, the initial deposit of Rs. 50,000 is necessary in order to show that it is not at all living upon the policy revenue. Secondly, for working expenses also there ought to be Rs. 50,000. Instead of expending the money of the policy-holders it must be shown by the company that in carrying on business like that it has sufficient financial backing. Otherwise, policy-holders are not at all safe. So that the conception of this deposit and the having Rs. 50,000 for working expenses is a very necessary protection of the interests of policy-holders. In addition to this, time has been given for ten years to life insurance people to deposit to the extent of Rs. 2 lakhs. When life insurance is combined with other insurance then the amount is correspondingly raised. And then in the case of the foreign companies, the time is very limited. They have to file entire amount in two years. First not less than half in the first year,

and after that the remainder in the next two years. Therefore, that is the only difference that is made between Indian and non-Indian companies. My Honourable friend Sir Phiroze Sethna asked, "Oh, why should any concession be given to British companies?" My reply to his query is this,—and the point has been very ably and lucidly dealt with by the Honourable the Law Member in the other place,—if we apply section 113, we cannot override the discriminatory provisions, and therefore it is that these British companies registered in the United Kingdom are treated in the same way as the Indian companies are treated. But with regard to foreign companies, the justification has been given by the Honourable the Law Member in connection with what Canada does with respect to all Canadian and foreign companies in respect of their deposits and the investment of their funds.

The most important feature of this Bill which will appeal to all those who take a dispassionate view of the subject is that the interests of the policy-holders are adequately safeguarded. I need not go into the various items to show how the interests of policy-holders are safeguarded by this measure, because a summary of those items was given by the Honourable the Law Member in the other House. For want of time to elaborate all those points, he has given about 17 points seriatim in the other House. In his concluding speech he has dealt with about 15 points beginning with working capital and ending with the provision for disabling certain insurance companies who are unable to fulfil certain conditions, and therefore I need not repeat them at length.

Then, Sir, the new provision in regard to the investments of funds is a very great safeguard in this Bill. My Honourable friend Sir Phiroze Sethna has alluded to certain difficulties in the matter. He said that glaring mistakes would not have taken place in certain cases, that the Government interference had been too much, and investments would affect the companies adversely, instead of helping them to concentrate their funds at one place they would be dividing their funds at different places, and therefore the investment of funds in Indian securities is not at all desirable, and they should be relieved of that obligation. Sir, I am opposed to that suggestion. How can foreign companies carrying on business in British India meet the liabilities incurred in British India unless they have sufficient funds against which the policy-holders could proceed in case of necessity? Secondly, instead of the company's funds being placed in other countries, provision has been made to place the funds in India, and wherever there is a dispute, such funds are to be placed in the hands of courts for ultimate decision. Therefore, it is entirely in the interests of the policy-holders, though it may not be in the interests of big business that they should have their own way, but Government have done the very right thing in asking these foreign companies to deposit the whole amount of liability in Indian securities.

Criticism has also been directed about licensing agents. Those who know the manner in which insurance agents carry on their business in the mufassil will be able to appreciate the point that I am making, and it is in order to prevent unhealthy rivalry among these agents and to prevent some of the most ugly methods to which they resort that the control proposed in this Bill by the Superintendent of Insurance is necessary. Asking these agents to obtain licenses is one of the ways in which they can be placed under the control of the Superintendent of Insurance who can proceed against such agents who commit any irregularity. Then again, limitation has been placed on the commission that these people are allowed to take, and it is a very salutary provision indeed.

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Again, it is stated that giving 45 per cent. commission is too much, and 55 per cent. in the case of those companies which are ten years old is also a great advantage to them. But it has been urged that the younger companies deserve encouragement; the older companies are well and firmly established and have large assets and they could command any amount of support, but the younger companies struggling for existence have to pay for organization and to their agents very liberally so that they may secure sufficient insurance business, otherwise the big insurance companies will monopolise all insurance business. Therefore, it is only natural that the big insurance companies should look askance and with a certain amount of suspicion on the provision which will help the younger companies. At the outset when the Bill was under discussion it was stated, "Oh, the Bill is in favour of big companies and the younger companies are going to be killed," but the final form of this measure will show that it is not going to be the case. On the other hand, very many provisions have been introduced to help the younger companies to carry on their business, provided they have got the financial backing. Licensing the insurance agents, is, therefore, a very necessary thing in order to have control over these people. The foreign companies have absolutely no grievance here. The foreign companies carrying on business here must be subject to the same terms and conditions as the Indian companies are subject to. The Indian companies are asked to conform to certain conditions, and the foreign companies doing insurance business here should not be exempted from conforming to the same restrictions and conditions which will be imposed on Indian companies. But foreign companies incorporated in the United Kingdom do not get any greater advantage except that they are placed on a par with the Indian companies. The statement of assets which the foreign companies have in British India must be filed; similarly the revenue accounts, the valuation of the business transacted in India, all these will have to be shown so that there may be complete publicity in the matter. There are many other salutary provisions incorporated in the Bill, *e.g.*, to allow policy-holders to apply for copies of accounts and other documents, to enable the Government of India to publish the accounts in a blue book form: all these provisions indicate that the Government is anxious to have as much publicity as possible in regard to insurance business. Hitherto, the Government of India had no responsibility whatever in regard to insurance firms publishing the accounts; these insurance firms had only to submit them to the Government, but under this Bill the Superintendent of Insurance has ample powers, he can demand from any insurance company their accounts, and he can call upon these companies to furnish copies of the accounts to their policy-holders. It was asked, "Oh, how would it be possible to copy out all these accounts, it would take a long time, it would not be possible for the insurance companies to furnish the copies of accounts and accounts within a stated time and so on". I cannot understand why insurance companies carrying on such huge business should not be able to furnish copies of the documents to their policy-holders. Then it was stated, "Oh, do not close the door against foreign companies by insisting on terms which would be difficult for them to fulfil". On the other hand, it is the object of this Bill, as I read it, to give as many facilities as possible to foreign companies carrying on insurance business in India. It is only those companies whose mother country imposes restrictions upon Indians carrying on business in that country which will be subject to these discriminatory provisions. For instance, countries have been named in which Indians are not allowed to carry on insurance business. It is also mentioned

that they impose very unnecessary conditions on business being carried on there by Indians. Therefore, after very careful consideration power is vested in the Government of India to finally act in the matter. So, the door is not at all closed for any foreign company carrying on business in India. After all, what we are interested in is the safeguarding of the interests of the insuring public. The test is, has the Bill been able to provide measures which would secure the safety of the insuring public? The answer to that decidedly is in the affirmative. It may not contain all the provisions necessary, but after experience, as we have had 25 years' experience before, similarly, after some experience, if necessary, further provision will, I am sure, be made in order to facilitate the carrying on of insurance business here. My honourable friend to the left has spoken about the fixation of commissions, discrimination, and the qualifications of the agent, and said that they might be modified. I do not see any necessity whatever for modifying them. The Bill is divided into five parts. Each part contains provisions for particular activities of the insurance companies. The third and fourth parts relate to provident companies and the General and Miscellaneous. Therefore, each part contains provisions which enable the public to see what is the result of the activities of the insurance companies. Hence it is impossible that these portions could be excluded. Reference has been made to copies of medical reports. It was said that if copies of medical reports were to be given, there would be reluctance on the part of medical men to give certificates or reports hereafter. I do not think so. As long as they would receive their fees and as long as there are honest medical men to report in the matter, it cannot in any way affect the insurance business. On the other hand, if there is a wrong or false report by a medical officer, the person concerned might be able to find out the grounds or reasons why his case has been rejected or his case has been accepted. It is necessary for him to know the grounds on which it was refused or it was accepted. Therefore, there is no reason whatever why copies of medical reports should not be given to the policy-holders. As I started by saying, these provisions have been so ably dealt with by, on one side, the Honourable the Law Member, and on the other by one who has had long experience in the matter, that there is very little left for others to comment on, except to say that the Bill, as a whole, must be accepted, and that no objection could be raised which would radically alter the provisions of this Bill.

THE HONOURABLE DIWAN BAHADUR SIE RAMUNNI MENON (Madras : Nominated Non-Official): Sir, the big guns do not seem to be quite ready yet and I think the moment is opportune when I can make one or two observations which I wish to make on this Bill. The first point that I should like to draw the attention of the Council to is this. I find in the Bill here and there indications of, shall I say, faulty draftsmanship or lack of final revision? As illustrations of the point, I should like to invite the attention of the Council to a few details. In clause 6 there seem to be 11 sub-clauses, and I find sub-clauses (1) and (2), and the next is sub-clause (4). What has happened to sub-clause (3)? Evidently, there is some mistake somewhere, and what is more, there is a reference in sub-clause (5) to "sub-section (3)", which does not exist in this clause. Then, take the definition of "insurer" on page 2. I shall extract from that a small portion which will read as follows:—

" 'Insurer' means any individual which has his principal place of business in British India."

We can all remember the example which is often quoted by the grammarians, "Our Father which art in Heaven"; but I do not think that the use of "which" in that example would justify its use in this sentence, "'Insurer'

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is any individual which has his place of business in British India". I hope the attention of the Honourable the Law Member and the Drafting Secretary —

THE HONOURABLE RAO BAHADUR SIR A. P. PATRO: It includes companies.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON: That may be so, I am not concerned with that. What I am saying applies to the wording which actually occurs in the Bill.

Then, there are various instances where the use of punctuation marks does not disclose either consistency or accuracy. Take, for instance, page 2, sub-clause (10). "Manager" in inverted commas, followed by a comma, and "officer" in inverted commas, have the meanings assigned... in clauses (9) followed by a comma and (11). There are plenty of other examples; I am only giving an illustration of the point to which I wish to draw attention.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Are there too many commas or too few commas!

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON: I have often seen legal composition in which there is a conspicuous and refreshing absence of all punctuation marks from the comma on to the full stop.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Plus and minus will balance each other!

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON: I hope some procedure will be adopted for putting all these, what one would call, blemishes right, so that by the time the Bill emerges from this Council it may present a finished appearance.

Another point to which I should like to invite attention is also a minor point, but it has to do with the substance of the Bill. Attention has already been drawn in the course of the debate to the fact that the Bill provides for deposits. So far as it goes, the provision is an exceedingly salutary one. When I went through the report of Mr. Sen, to whom such well deserved tribute was paid in this Council with which I associate myself, I noticed that, while he was very keen that provision should be made for these deposits, he was equally anxious that provision should be made against their depreciation. As far as I am aware, there is nothing in this Bill to provide against the depreciation of the securities which may be placed in deposit. It so happens that all Government securities and other trust securities—I am not a business man, but I believe I am stating a fact—are at the moment at what one might call their peak value, and so far the insurance companies are particularly fortunate. But what will happen if these securities fall in value in the course of a few years? I can appreciate the difficulty of keeping any security at its estimated value from day to day, because these securities fluctuate from day to day, certainly from year to year. I fully understand the difficulties of meeting a contingency of that kind. But these insurance companies are profit-earning companies. They make profits, and I suppose they estimate their profits from time to time, and I do not understand why it is not possible to set aside at least a portion of these profits periodically, say, once in five years, as a provision against depreciation of the deposits.

Another point which has occurred to me on going through this Bill is this. I am not a lawyer but it does not require any knowledge of law to say that the Act which this Bill will very soon become will be operative only in British India. What I should like to ask is this. What will be the position of the clients of insurance companies incorporated in British India, who are residents of Indian States? Will they be subject to the liabilities and limitations imposed by this Bill or will they not? If they are not subject to these limitations and penalties, then I suppose it follows that an insurance company can evade the law as far as the residents of Indian States are concerned in regard to the provisions of this Act. If so, can they give rebates to their clients in Indian States and also can these companies have agents in Indian States who will not be subjected to the penalties imposed by this Act? I am not suggesting this in any happy frame of mind. I am only putting forward this question with a view to a further inquiry whether, in order to make the law of insurance as far as possible uniform throughout the whole of India, the Law Member and the Government of India would not take some further action, namely, whether they will not try and persuade Indian States to fall into line with British India by adopting similar legislation. I need only refer to the notorious case of the Sarda Act. We know what happened in the case of the Sarda Act. We do not want any of those malpractices, of the existence of which ample evidence has been furnished in the course of the proceedings on this Bill, to continue. We do not want these companies to change their place of residence from British India to Indian States. So, I should be very glad if the Honourable the Law Member can see his way to influence the Government of India to persuade the Indian States to introduce similar legislation in their territories. That will probably solve the difficulty which I feel.

Sir, I have no other remarks to make on this Bill except to offer the Honourable the Law Member my very hearty congratulations on the very skilful and businesslike manner in which he piloted the Bill through its most intricate and difficult course in the lower House; and I wish him all success in this Council.

THE HONOURABLE THE PRESIDENT: Sir Ramunni Menon has said that the big guns were not ready today. I hope they will be ready tomorrow. Otherwise, I shall call upon the Honourable the Law Member to give his reply and proceed with the second reading of the Bill.

The Council then adjourned till Eleven of the Clock on Tuesday, the 16th November, 1937.