

Monday, 22nd November, 1937

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1937

(13th September to 25th November, 1937)

SECOND SESSION
OF THE
FOURTH COUNCIL OF STATE, 1937



PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.
1938

CONTENTS.

	PAGES.
Monday, 13th September, 1937—	
Address by His Excellency the Viceroy to the Members of the Council of State and the Legislative Assembly	1—7
Tuesday, 14th September, 1937—	
Members Sworn	9
Questions and Answers	9—35
Information promised in reply to questions laid on the table	35—42
Agreements between the Reserve Bank of India and certain Local Governments laid on the table	42—73
Message from His Excellency the Governor General	74
Committee on Petitions	74
Death of Mr. Bijay Kumar Basu and Mr. Jatindra Chandra Banerjee	74—76
Governor General's Assent to Bills	76—77
Bills passed by the Legislative Assembly laid on the table	77
Standing Committee on Emigration	77
Congratulatory to recipients of Honours	77—79
Resolution <i>re</i> Report of the Indian Railways Enquiry Committee—Moved	79—80
Wednesday, 15th September, 1937—	
Member Sworn	81
Questions and Answers	81—121
Resolution <i>re</i> Enquiry into the working of the E. I. R. Press—Withdrawn	121—20
Resolution <i>re</i> Political exiles—Negatived	126—51
Resolution <i>re</i> Recruitment to the Public Services by examinations to be held in India only—Negatived	151—63
Resolution <i>re</i> Local Advisory Committees of the B. N. R.—Withdrawn	163—66
Resolution <i>re</i> Protection of Indian interests in Fiji, British Guiana and Trinidad—Moved	166
Monday, 20th September, 1937—	
Member Sworn	167
Questions and Answers	167—211
Bill passed by the Legislative Assembly laid on the table	211
Standing Committee on Emigration	212
Resolution <i>re</i> Protection of Indian interests in Fiji, British Guiana and Trinidad	212—25
Indian Succession Act (Amendment) Bill—Motion to introduce and circulate, adopted	225—27

	PAGES.
Monday, 20th September, 1937—<i>contd.</i>	
Resolution <i>re</i> Pay of the I.C.S.—Negatived	227—55
Shebaity Bill—Introduced	255
Resolution <i>re</i> Nomination of members of the U.T.C. to the Indian Military Academy, Dehra Dun—Moved	255
Wednesday, 22nd September, 1937—	
Member Sworn	257
Questions and Answers	257—80
Information promised in reply to questions laid on the table	280
Agreement between the Reserve Bank of India and the Gov- ernment of the North-West Frontier Province laid on the table	281—84
Library Committee of the Indian Legislature	285
Resolution <i>re</i> Nomination of members of the U.T.C. to the Indian Military Academy, Dehra Dun—Negatived	285—300
Cutchi Memon Bill—Introduced	301—02
Resolution <i>re</i> Cadet Corps in schools, etc.—Negatived	302—13
Resolution <i>re</i> Taxes on excessive profits of protected industries— Withdrawn	313—21
Control of Coastal Traffic of India Bill— <i>To be continued</i>	322—25
Thursday, 23rd September, 1937—	
Member Sworn	325
Motion for Adjournment <i>re</i> Appointment of a non-Indian as Economic Adviser to the Government of India—Disallowed	325—27
Resolution <i>re</i> Report of the Indian Railways Enquiry Committee— Adopted	327—83
Statement of Business	383
Tuesday, 28th September, 1937—	
Member Sworn	385
Statement <i>re</i> Supplementary Questions	385—89
Questions and Answers	389—94
Statement <i>re</i> Insurance Bill	395
Statement of Business	395—96
Petroleum (Berar Extension) Bill—Considered and passed	396—97
Rules and Regulations Continuance Bill—Considered and passed	397—98
Federal Court Bill—Considered and passed	398—99
Wednesday, 29th September, 1937—	
Questions and Answers	401—05
Control of Coastal Traffic of India Bill—Motion to refer to Select Committee, negatived	405—62

	PAGES.
Saturday, 2nd October, 1937—	
107 Questions and Answers	463—80
108 Draft Conventions and Recommendations of the International Labour Conference laid on the table	480—505
607 Agreement between the Governor of Bengal and the Reserve Bank of India laid on the table	505—09
Cutchi Menon Bill—Motion to circulate, adopted	509—10
VI ^{1/2} Muslim Personal Law (Shariat) Application Bill—Considered and passed	510—11
81 Resolution <i>re</i> Ratification of the International Agreement for the regulation of production and marketing of sugar—Adopted	511—64
Bills passed by the Legislative Assembly laid on the table	564
61 Statement of Business	565
Tuesday, 5th October, 1937—	
12 Questions and Answers	567—94
2 Information promised in reply to questions laid on the table	594—98
1 Bill passed by the Legislative Assembly laid on the table	598
Indian Tariff (Second Amendment) Bill—Considered and passed	598—99
Indian Securities (Amendment) Bill—Considered and passed	599—600
Monday, 15th November, 1937—	
Members Sworn	601
Death of Mr. Ramsay MacDonald	601—02
VI ^{1/2} Questions and Answers	602—19
Congratulations to Rai Bahadur A. L. Banerjee on his appointment as Assistant Registrar in the Federal Court	619
65 Information promised in reply to questions laid on the table	620—26
66 Agreements between the Reserve Bank of India and the Government of Bombay laid on the table	626—30
13 Bill passed by the Legislative Assembly laid on the table	630
81C Insurance Bill—Motion to consider— <i>To be continued</i>	631—65
Tuesday, 16th November, 1937—	
10 Questions and Answers	667—68
Insurance Bill—Motion to consider— <i>To be continued</i>	668—708
Wednesday, 17th November, 1937—	
Questions and Answers	709—20
Insurance Bill—Motion to consider, adopted— <i>To be continued</i>	721—40
Friday, 19th November, 1937—	
Member Sworn	743
Questions and Answers	743—58
Motion for Adjournment <i>re</i> Report of the Wheeler Committee on the reorganization of the Secretariat—Allowed	759—61

	PAGE.
Friday, 19th November, 1937—contd.	
Information promised in reply to question laid on the table	761
Insurance Bill—Consideration of clauses— <i>To be continued</i>	761—94
Motion for Adjournment <i>re</i> Report of the Wheeler Committee on the reorganization of the Secretariat—Talked out	794—815
Monday, 22nd November, 1937—	
Member Sworn	817
Questions and Answers	817—18
Motions for Adjournment <i>re</i> (1) Ratification of the International Sugar Agreements and (2) Contribution made by His Majesty's Government towards mechanization of the Army in India—Disallowed	818—19
Insurance Bill—Consideration of clauses— <i>To be continued</i>	819—82
Tuesday, 23rd November, 1937—	
Questions and Answers	863
Information promised in reply to question laid on the table	863—65
Insurance Bill—Consideration of clauses— <i>To be continued</i>	865—911
Wednesday, 24th November, 1937—	
Information promised in reply to questions laid on the table	913—14
Insurance Bill—Consideration of clauses— <i>concluded</i>	914—58
Thursday, 25th November, 1937—	
Short Notice Question and Answer	957
Motion for Adjournment <i>re</i> Appointment of Mr. Salt as Entomologist to the Imperial Council of Agricultural Research—Disallowed	957—60
Information promised in reply to questions laid on the table	960
Insurance Bill—Motion to pass	961—74
Statement <i>re</i> Motion for Adjournment <i>re</i> Appointment of Mr. Salt as Entomologist to the Imperial Council of Agricultural Research	975
Insurance Bill—Motion to pass, adopted	975—97
Indian Mines (Amendment) Bill—Considered and passed	987—91

COUNCIL OF STATE.

Monday, 22nd 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.

MEMBER SWORN:

The Honourable Mr. Muhammad Saleh Akbar Hydari (Government of India: Nominated Official).

QUESTIONS AND ANSWERS.

PROPOSED TRANSFER OF PARTS OF AJMER-MERWARA TO THE STATES OF JODHPUR AND UDAIPUR.

356. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh): (a) Is there any proposal to transfer parts of Ajmer-Merwara from British territory to the Udaipur and Jodhpur Darbars? If so, why?

(b) Is the community of Mers specially agitated over the proposed transfer, as their community would be cut into three parts? Will the people of the territory proposed to be transferred be consulted before a final decision is arrived at?

(c) Will an opportunity be given to the Central Legislature to discuss the matter?

(d) What parts of Ajmer-Merwara are proposed to be transferred?

THE HONOURABLE MR. J. A. THORNE: There is no proposal to transfer to any Indian State any part of the Chief Commissioner's Province of Ajmer-Merwara.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, we could not hear the Honourable Member. He was very indistinct. May I ask him to please repeat his answer?

THE HONOURABLE THE PRESIDENT: I think he was very distinct. You were talking all the time to another Honourable Member.

THE HONOURABLE MR. J. A. THORNE: There is no proposal to transfer to any Indian State any part of the Chief Commissioner's Province of Ajmer-Merwara.

THE HONOURABLE MR. HOSSAIN IMAM: Is it a fact, Sir, that some of the villages are being transferred to the two Darbars from the administrative area.

THE HONOURABLE MR. J. A. THORNE: No part of the Chief Commissioner's Province.

THE HONOURABLE MR. HOSSAIN IMAM: From the administrative area?

THE HONOURABLE MR. G. S. MOTILAL: Is there any proposal to transfer any part of any other area of that province?

THE HONOURABLE MR. J. A. THORNE: Of that, Sir, I have no knowledge. It would not be a matter that concerns the Governor General in Council.

PILGRIMS.

357. THE HONOURABLE MR. R. H. PARKER: (a) Will Government state whether, on a pilgrim paying the deposit prescribed in pursuance of clause (b) of section 208A of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Government of India thereby guarantee the pilgrim a return passage to India.

(b) Will Government state what financial provision has been made for the sustenance of pilgrims holding Deposit Paid Passports who may be delayed in Jedda and who are not entitled to Re. 1 per day payable from the Shipping Company to return ticket holders under section 209A of the Indian Merchant Shipping Act.

(c) Will Government be pleased to state whether in the present circumstances they subscribe to the advice given in the last paragraph of section II of Part I of the Manual of Instructions for Pilgrims to the Hejaz issued by the Bombay Port Haj Committee which reads as follows :

“Intending pilgrims are advised to deposit the cost of the return passage in preference to the purchase of a return ticket as the holder of a return ticket is liable to be stranded in the Hejaz if he loses the return coupon through fraud or otherwise”.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) The Honourable Member is referred to rule 136 of the Indian Pilgrim Ships Rules, 1933, of which a copy is in the Library of the House.

(b) None. Indigent pilgrims are, however, repatriated at Government expense.

(c) Government have this point under consideration.

MOTIONS FOR ADJOURNMENT *RE* (1) RATIFICATION OF THE INTERNATIONAL SUGAR AGREEMENT AND (2) CONTRIBUTION MADE BY HIS MAJESTY'S GOVERNMENT TOWARDS MECHANIZATION OF THE ARMY IN INDIA.

THE HONOURABLE THE PRESIDENT: I have received notices of two Adjournment Motions. I will read the first Adjournment Motion, notice of which is given by the Honourable Mr. Motilal. It reads thus:—

“I have the honour to request you to allow me to move a Motion for Adjournment of the business of the House today, the 22nd November, 1937, for discussing an urgent matter of public importance, namely, the reported ratification by the Government of India of the International Sugar Agreement. I have also sent notice of this Motion to the Honourable the Commerce Member to whose Department the Motion relates.”

It must be in the recollection of Honourable Members that on the 2nd of October, 1937, in the Council of State at Simla a Resolution was moved at the instance of the Honourable Mr. Dow to the following effect:

“This Council recommends to the Governor General in Council that the International Agreement regarding the regulation of production and marketing of sugar signed in London on the 6th May, 1937, be ratified by him”.

This Resolution was fully discussed, and after a substituted Resolution was proposed, which was negatived, the original Motion was carried.

I may also remind Honourable Members that under rule 12, Chapter VI, it is distinctly stated that the right to move an Adjournment Motion for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, and among the restrictions is clause 3, which says this :

“A Motion must not revive discussion on a matter which has been discussed in the same session”.

It is, therefore, incumbent on me to see whether the present is a continuation of the same session or a different session. Under Standing Order 3, the Governor General by notification appoints the date and place for a session of the Council, and after the conclusion of the session of the Council he also prorogues the Council. This was not done by the Governor General in the present case after the Simla session; the Council of State was not prorogued. By another notification subsequently issued by the Governor General, which appears in the Gazette of India of Saturday, the 9th of October, 1937, His Excellency distinctly notified that he is pleased to direct that the session of the Council of State which commenced at Simla on Monday, the 13th September, 1937 shall be continued in New Delhi. This makes it perfectly clear that it is the same session, and that this Adjournment Motion seeks to revive a discussion on the same subject which, I am afraid, precludes me entirely from taking cognizance of it. I will give the Honourable Member an opportunity if he has anything further to urge after what I have stated.

THE HONOURABLE MR. G. S. MOTILAL (Bombay: Non-Muhamadan): Sir, I accept your ruling that this is a continuation of the Simla session, and therefore I will not press my Motion.

THE HONOURABLE THE PRESIDENT: I have also received notice of another Adjournment Motion from the Honourable Mr. Sapru and the Honourable Mr. Hossain Imam which runs:

“We beg to give notice that we shall move on Monday, the 22nd November, 1937, a Motion for the Adjournment of the House to consider a matter of urgent public importance, namely, the inadequate contribution made by His Majesty's Government towards the Mechanization of the Army in India.”

I cannot accept this Motion for Adjournment, because I have just received orders from His Excellency the Governor General stating that he has disallowed this Adjournment Motion on the ground that it cannot be moved without detriment to the public interest under sub-rule (2) of rule 22.

INSURANCE BILL—contd.

THE HONOURABLE THE PRESIDENT: We shall now proceed with the further consideration of the Insurance Bill.

Clause 3.

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member): Sir, before you proceed with the amendments lower down the list, may I have your permission to draw attention to an unintentional omission, purely

[Sir Nripendra Sircar.]

through inadvertence, which led to a division of this House. By an amendment, the words "relating to insurance" were added after the words "law and practice of the country" in sub-clause (3) of clause 3. The opposition was based on the contention that these words narrowed the scope of retaliation in clause 3 (3). This was not intended by us. If Indians are prevented from carrying on insurance business, the power of retaliation ought to remain. The proper words should have been "relating to or applied to insurance". If you will permit me, I propose to move an amendment that the words "relating to or applied to insurance" be substituted for the words "relating to insurance". America, may have discriminatory laws against Indians, but that will not give any power of retaliation, and Indians are not prevented, as is the case from carrying on insurance business there. Clause 3 has been passed by the House but it has still seisin of the Bill and in making this request for following a course which is ordinarily not permissible, I place before you the following exceptional circumstances, namely, (1) the matter is very important; (2) the omission was purely unintentional; and (3) the proposed amendment which is going to be moved if allowed will meet the wishes of the Opposition, will carry out what was intended by Government and the Opposition in the Assembly and will remove the unfounded suspicion that the Government intended deliberately to go back on what it had agreed to at the other place, and, lastly, if permission is now granted it will avoid the necessity of my moving an amendment at another place and coming up here again for getting that sanctioned by this House.

THE HONOURABLE THE PRESIDENT: What is the number of the amendment?

THE HONOURABLE SIR NRIPENDRA SIRCAR: No. 25 (2).

THE HONOURABLE THE PRESIDENT: I remember very well that at the time when this amendment was discussed a special reference was made to this matter and I was myself rather surprised that when passing that amendment the words to be added were dropped. It was not, of course, my concern to bring the matter to the notice of the Honourable Member. There are two alternatives before me now. I agree with the Honourable Member that it was an unintentional omission and it was also pressed by Honourable Members on the other side of the House. I am quite ready and willing to permit the amendment being moved. I leave it to the Law Member to decide whether he should move this now or at the third reading of the Bill. I am agreeable to adopt any course which he prefers to adopt in the matter.

THE HONOURABLE SIR NRIPENDRA SIRCAR: If you are agreeable to either course, I would very much prefer that I may be allowed to move it now, instead of waiting till the third reading.

THE HONOURABLE THE PRESIDENT: I have no objection.

THE HONOURABLE SIR NRIPENDRA SIRCAR: With your permission, Sir, I move:

"That in clause 3 (3) for the words 'relating to insurance' the words 'relating to or applied to insurance' be substituted."

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 3, as amended, stand part of the Bill."

The Motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 6.

THE HONOURABLE THE PRESIDENT: May I draw your attention to clause 6 which we had held over before we now proceed with others? Are you ready with your amendment?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Clause 6 stood over because we wanted time to reconsider the exact language. That has been done and if you will kindly allow it, Mr. Bartley will move it.

THE HONOURABLE MR. J. BARTLEY (Government of India: Nominated Official): Sir, I suggest that in the amendment moved by the Honourable Mr. Motilal where he says:

"That in sub-clause (c) of clause 6 for the words 'one third' where they occur the second time the words 'one half' be substituted",

the following correction should be made:

"For the words 'one third the balance' where they occur the second time the words 'one half the residue' be substituted."

The clause as amended will read thus:

"not less than one third the balance before the expiry of one year from the commencement of business in British India and not less than one half the residue before the expiry of two years from the commencement of business in British India and the balance before the expiry of three years from the commencement of business in British India."

I think that will carry out the Honourable Mr. Motilal's idea and will clarify the drafting of the section as it stands in the Bill. I move:

"That for the words 'one third the balance' where they occur the second time the words 'one half the residue' be substituted."

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): I suggest, Sir, that it would be much better if we had this amendment in writing. Merely having it read is unsatisfactory and a very bad precedent.

THE HONOURABLE THE PRESIDENT: In that case, I will take it later on.

Clause 6 held over.

Clause 20.

***THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY** (East Bengal: Non-Muhammadan): Sir, I would suggest that amendments Nos. 102 and 103 be taken together. They only seek to make verbal alterations. I beg to move:

"That in sub-clause (1) of clause 20 for the words 'If it appears to the Superintendent of Insurance the words 'For the purpose of satisfying himself' be substituted" and

"That in sub-clause (1) of clause 20 for the words "inaccurate or defective in any respect, he may' the words 'accurate or not defective in any respect, the Superintendent of Insurance may' be substituted."

[Mr. Kumarsankar Ray Chaudhury.]

The amendment when made will read thus :

"For the purpose of satisfying himself that any return furnished to him under the provisions of this Act is accurate or not defective in any respect, the Superintendent of Insurance may",

and so on. The object of moving this amendment is simply to remove the stigma of an investigation attaching to an insurance firm.

Sir, I move.

THE HONOURABLE THE PRESIDENT: I shall put the first part of the amendment first. Amendment moved:

"That in sub-clause (1) of clause 20 for the words 'If it appears to the Superintendent of Insurance' the words 'For the purpose of satisfying himself' be substituted."

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. I do not see how the position is improved by the amendment. It is said with reference to the language, "If it appears to the Superintendent" that there are certain things, and then if he proposes to do certain things, a stigma attaches to the company. Well, Sir, the position will be the same—if the argument is sound and I do not admit it is sound—if the Superintendent of Insurance proceeds to satisfy himself. Even then people may say that there is dissatisfaction, there is something wrong. Sir, it is a mere verbal alteration which serves no purpose and I oppose.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: I shall now put the second part of the amendment. Amendment moved:

"That in sub-clause (1) of clause 20 for the words 'inaccurate or defective in any respect, he may' the words 'accurate or not defective in any respect, the Superintendent of Insurance may' be substituted."

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I have nothing to add. I oppose it. I see no improvement by this amendment.

Question put and amendment negatived.

THE HONOURABLE MR. J. BARTLEY: Sir, I beg to move:

"That in clause 20 in sub-clause (1) (d) for the words 'before the expiry of one month from the date on which requisition asking for correction or supply of deficiency was delivered' the words 'before the expiry of one month from the date on which the requisition asking for correction of the inaccuracy or supply of the deficiency was delivered' be substituted."

This is a very petty amendment, Sir, and has no other reason than slightly to improve the language of the clause.

Question put and amendment adopted.

THE HONOURABLE RAO BAHADUR SIR A. P. PATRO (Madras: Nominated Non-Official): Sir, I beg to move:

"That to sub-clause (1) (d) of clause 20 the following words be added, namely:

"The Superintendent of Insurance may cancel registration after giving due notice to the insurer."

Sir, under clause 20, if the insurer fails to carry out the suggestions made by the Superintendent, if he declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 14 or section 15 relating to the furnishing of returns. We find this in clause 3(4):

"In the case of any insurer the Superintendent of Insurance shall cancel a registration already made if the insurer fails to comply with the provisions of section 6, as to deposits".

Similarly, the Superintendent has got the power, if he finds, on inspection, that it is not financially sound, to move the court for winding up the business. Now, the accounts to be submitted and the returns to be furnished under clauses 14 and 15 constitute very important information. The only other penalty provided is in clause 93, which says that for every day of default he shall pay a first fine of one thousand rupees and for every day of continuing default he shall pay a fine of five hundred rupees. Clause 93 actually says this:

"Except as otherwise provided in this Act any insurer who makes default in complying with or acts in contravention of any requirement of this Act and, where the insurer is a company, any director, managing agent, manager or other officer of the company, or where the insurer is a firm, any partner of the firm who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing default, with an additional fine which may extend to five hundred rupees for every day during which the default continues".

Now, I submit that, instead of continuing the agony of this penalty for every day of paying Rs. 500 for default, there should be a provision here in clause 20 that the Superintendent shall have the power of cancelling the registration if the provisions of the important sections 14 and 15 are not complied with. That is the object with which I move the amendment, because there is already a provision in sub-clause (4) of clause 3 that in case of disobedience in accordance with clause 6 he shall have power to cancel the registration. Then the Superintendent shall have power to move the court to wind up the business when he finds it financially unsound. Now, in the case of a recalcitrant company where they do not comply with the provisions of clauses 14 and 15 he should have power to cancel the registration instead of having recourse to clause 93, which means a heavy penalty from day to day and which the company or the agent or manager may not be able to pay. Then, what is the result? If he is not able to pay the fine, he does not pay. Are the assets of this insurance company to be attached, or what is the next penalty that is to be enforced? If under clause 93 for every day a fine of Rs. 500 is imposed and if the company's assets are not worth that in the course of a month or two, then what is to be done? How is this fine to be recovered? Therefore I submit that the Superintendent should have the power of cancelling the registration instead of continuing this agony.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise to oppose this amendment. I think my Honourable friend Sir A. P. Patro has overlooked a very important fact. His analogy of the other provisions has no bearing in regard to this clause. A concern may be financially sound but due to inadvertence or wilful negligence returns may not be submitted, and in such a case the effect would be that the policy-holders will be hit. The cancellation of a company is a very serious affair because the man punished by such

[Mr. Ramadas Pantulu.]

cancellation is not the insurer but the insured. Therefore, a large class of people will be affected by this amendment. Moreover, clause 98 is in consonance with similar provisions in the Indian Companies Act; what is imposed by the Indian Companies Act is a penalty day by day and the penalty provided is a maximum, and the Superintendent of Insurance, just like the Registrar of Assurances, may not impose the maximum penalty. I think this amendment is drastic and makes a very serious inroad on the rights of policy-holders and the effect of carrying this amendment would be to wind up a financially sound concern for the default of a managing director.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. In addition to the arguments which have been advanced by the last speaker, I would like to point out to the Honourable the Mover of this amendment that if he is appalled by the agony of a daily fine of five hundred rupees, that still remains if his amendment is carried. The daily fine can be imposed in spite of the power of cancellation. But to give such a drastic power because certain returns are found by the Superintendent to be defective is a proposition to which I cannot possibly agree.

Sir, I oppose.

Question put and amendment negatived.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That sub-clause (2) of clause 20 be omitted."

Sir, my object in moving this amendment is that I do not want to take away the power of the court, but what I want to state is this. Clause 20 deals with the power of the Superintendent of Insurance regarding returns. Here we have got the power of the court to interfere, but in the next clause (clause 21), which deals with the power of the Superintendent of Insurance to order devaluation there is no power of the court to interfere. Then, power is again given in clause 28 to the court to interfere. What I submit is that power should be given to the court to interfere also in respect of clause 21. Therefore, what I have done is to remove this sub-clause (2) of clause 20 and put in a new clause by my amendment No. 184, dealing with clauses 21 and 28 together. That is the object why I move that this sub-clause be omitted from the Bill.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. Although my Honourable friend started by saying that he does not want to take away the power of the court, yet this will be the effect of his amendment if carried. The court has now got the power to check the Superintendent if he has gone wrong, and if this sub-clause is deleted, that power of the court will be removed. We cannot possibly agree to that because throughout this Bill I have been rather influenced by the fact that although it is necessary to give very great powers to the Superintendent, yet there should be some authority to check them on important matters because, after all, any Superintendent, however honest, may commit errors of judgment.

Sir, I oppose the amendment.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 20, as amended, stand part of the Bill."

The Motion was adopted.

Clause 20, as amended, was added to the Bill.

Clauses 21, 22, 23, 24 and 25 were added to the Bill.

Clause 26.

*THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal: Non-Muhammadan): Sir, I beg to move:

"That for sub-clause (1) of clause 26 the following sub-clause be substituted, namely:

26. (1) Every insurer incorporated or domiciled in British India shall at all times invest and hold invested, assets equivalent to fifty-five per cent. of the sum of the amount of his liabilities to holders of life insurance policies in British India on account of matured claims and the amount of the reserve necessary to meet outstanding claims on policies of life insurance maturing for payment in India, less the amount of any deposit made under section 6 by the insurer in respect of his life insurance business and less any amount due to the insurer for loans granted by him on policies of life insurance, in either Government or other approved securities or securities of or guaranteed as to principal and interest by the Government of the United Kingdom."

Sir, the object of this amendment is to do away with the compulsion clause about the investment of 25 per cent. in Government securities without, at the same time, disturbing the total percentage of the investment. The approved securities are quite good securities and sometimes give a better return. It is with that object that I move this amendment.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Sir, I rise to support this Motion. The reasons which have been stated by my Honourable friend Mr. Susil Kumar Roy Chowdhury are very cogent. He does not want to disturb the quantum of the investment in approved securities. What he wishes to do is that there should be no compulsion to invest 25 per cent. in one kind of securities and 30 per cent. in another kind of securities. He leaves the insurer free to invest either the whole of the 55 per cent. of his life fund in one or the other kind of securities. Now, the position is that the difference between the Government securities and the approved securities is almost nil. If the Government security is backed by the prestige and the position of the Government, so is the approved security. All the approved securities are guaranteed for their principal as well as the interest by the Government of either the Centre or of the Provinces or of the United Kingdom, therefore there will be no harm if we substitute one for the other. There is another thing which must be considered before we come to any decision. The tendency of reduction in the rate of interest of the Government securities must also be considered. Government, no doubt, is a stable body, and so are the Governments who guarantee the approved securities. But there is a sentimental value attached to the Government securities which is not so apparent in case of

*Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

approved securities with the result that you get a little higher return on your investment in the approved securities than you can expect to get in the Government securities. The reason why I am supporting this amendment is that at the time when most of the insurance tables were framed by the insurers, they had assumed a certain yield on their investments. As you know, the assumption of return on investment is for a long period in insurance. But on account of the rise in prices of the Government securities as well as of approved securities, this position is being disturbed. This question is not only disturbing the Indian insurers but even insurers in other parts of the world. I had occasion to read the presidential address of Mr. J. M. Keynes to one of the Insurance Companies, in which he referred to the very small yield which the insurers were getting from their investment in Government securities. This meant that either the insurers will have to suffer and pay part of the bonuses from their reserves or they will have to reduce the bonuses to the participating policy-holders. But there is another class of policy-holders for which there is no provision to equalize the reduction in the interest yield. I refer to non-participating policy-holders. There you have fixed a table of the premium rate on the assumption that you will be earning so much from your investments. Having entered into that contract, what you really do if you reduce the return from your investment, is that you raid the fund of the participating policy-holders, because the participating policy-holders are not only policy-holders but they have also some of the responsibilities, advantages and disadvantages of the shareholders because they are sharers in their profits as well. Whatever you pay to the non-participating policy-holders really comes out of the pockets of the participating policy-holders. For this reason, Sir, I support this amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I went into the matter at some length at an earlier stage and I shall not repeat those arguments. But I would like to point out to the Honourable Mover of this amendment that if this is carried, it will mean that all the United Kingdom companies—big British companies—can put in their entire 55 per cent. in British securities. I do not see why the United Kingdom companies, who want to do business here, should not invest at least a part of their money in our securities.

Sir, I object to this amendment.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras: Nominated Non-Official): Sir, I should like to point out what appears to be a contradiction or at least an inconsistency which occurs in this amendment. It also occurs in the original sub-clauses (1) and (2). I am assuming that the word "India" as used in these sub-clauses has the meaning attached to it in ordinary usage; that is to say, that it includes British India and Indian States. If that assumption is correct, I should like to ask whether the use of the term "India" in this amendment is justified and whether it should not really be "British India"? If you say "55 per cent. of the sum of the amount of his liabilities to holders of life insurance policies in British India", then consistency requires that you should say, "on account of matured claims and the amount of the reserve necessary, etc., maturing for payment in British

India": I am asking what the intention is. Of course it is a matter which I leave entirely to the Honourable the Law Member to decide.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I have no right of reply, but if you will permit me, I will say that my Honourable friend is quite right in pointing out the inconsistency in clause 26 (1) as drafted, but amendments will be moved and will be supported by Government striking out the word "British".

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON: That is all right.

Question put and amendment negatived.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in sub-clause (1) of clause 26 after the words 'every insurer incorporated or domiciled in British India shall' the words 'subject to the provisions of sub-section (3)' be inserted."

Sub-section (3) makes a small exception to the terms of sub-section (1) and this is merely a formal insertion to call attention to sub-section (3).

Question put and amendment adopted.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in sub-clause (1) of clause 26 after the words 'equivalent to' the words 'not less than' be inserted."

The object of this amendment is apparent and I need say nothing more in support of it.

Question put and amendment adopted.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-clause (1) of clause 26, after the words 'British India' the words 'not being a provident society' be inserted."

I submit, Sir, that provident societies are not required to conform to this section and so they should be clearly excepted.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose this amendment as it is apparently moved under a misapprehension. This section does not apply to provident societies who are not "insurers". A special provision has been made in regard to provident societies that they shall have to invest up to the extent of 50 per cent. and so on. This section has no application at all to provident societies.

THE HONOURABLE MR. RAMADAS PANTULU: Provident societies are excluded from the definition of "insurer" as a matter of fact. They are not within the definition of "insurer". Therefore, this clause would not cover them in any case because of the definition in clause 2 of sub-clause (8).

THE HONOURABLE SIR NRIPENDRA SIRCAR: That is so.

Question put and amendment negatived.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to move:

"That in sub-clause (1) of clause 26 for the word 'fifty-five' the word 'fifty' be substituted."

Sir, my amendment is one in which the general public are at one with me. The insurance companies are like banks, and so are meant to develop the trade and commerce of this country. Sir, there was a time when Government securities were giving a good return. Some years back, the yield was as much as 6½ per cent. Then the yield began to decrease, and now it stands between three and a half and three per cent. Sir, this is a time when Government securities are practically at par. Some companies have invested in Government securities when they were selling between 47 and 50, and to force those companies who now come into existence and who have not got a large percentage of Government securities in their reserves will mean that the Government will force them to invest in Government paper when the rates are practically high. Sir, there is a great probability of a war before us, and if war breaks out, as we have seen in the past, Government securities are bound to go down and the result will be that Government will be instrumental in putting all these companies, by forcing them to invest all their 55 per cent. in Government paper and approved securities to immediate loss, and placing them at a disadvantageous position compared with those companies who have been lucky enough to buy Government paper when it was cheapest. Fifty-five per cent. is more than half of their money. It means that the five per cent. which I want to be released from Government paper and approved stocks to other securities is a very modest demand.

Sir, insurance companies have been giving a good bonus to the policy-holders. Restricting their investments in this manner to 55 per cent. will certainly reduce the funds which otherwise they would have invested in other company stocks. During the war our experience showed that stocks of all the sound companies were highly appreciated. I need not go into the details of the various companies whose stocks stood at a high premium during the war. So, if you will allow insurance companies to invest their funds—and I am only talking of five per cent. in excess of what you are allowing them now—you will put these companies into a better position to pay good dividends and also to give better bonuses to their policy-holders. We find that some of the companies who are lucky enough now to hold a premier position in the insurance world, from the last 15 to 20 years of their working, notwithstanding that they are not holding 55 per cent. of their investments in Government and other approved securities, have maintained their sound position and have always given good dividends and bonuses. Sir, my impression from the reports I have received is that the majority of those members who in the other place agreed to this figure of 55 per cent., on reconsidering this very important clause, now seem willing to change their opinion and would allow the 55 per cent. to be reduced considerably. I know that the Honourable the Law Member had great difficulty in coming to a compromise on this clause, but I can assure him from the information I have that if this amendment, which I consider very modest and reasonable, is adopted in this House, the other House will in all probability accept and welcome the amendment.

With these words, Sir, I move my amendment for the consideration of the House.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose this amendment. I admit that a five per cent. reduction is a modest demand; but by a series of modest demands we have reduced 100 to 55. In the process of haggling, negotiating and compromising we are at last stuck at 55. I am now told that my Honourable friend's information is that those who in the other place supported 55 will be now willing to support 50. Sir, I am afraid I cannot accept that, because this 55 per cent. was arranged at a conference in which the Leaders of all the Parties were present, and I have heard only from one of the Leaders now that he will be willing to support 50. I cannot possibly go back on an arrangement to which I definitely agreed. And, secondly, on the merits—supposing there was no arrangement whatsoever—the Mover's arguments surely apply as much to 50 as to 55. Whatever the arguments employed, *e.g.*, that there may be war, that Government promissory notes may go down, etc.—all those apply to 50 as much as to 55. There is no mathematical formula by which you can say 55 is the exact figure and it should not be 56 or 57 or, on the other hand, 51 or 45. That is what I explained in my original speech. I do not want to take the time of the House uselessly. I am afraid I cannot agree to this amendment, and reopen a question settled after prolonged discussion.

THE HONOURABLE MR. HOSSAIN IMAM: Before I commence my remarks may I ask the Honourable the Law Member to elucidate what he means by this clause whether it is the book-value which he wants the insurer to maintain or the market value at 55 per cent. of the reserves?

THE HONOURABLE SIR NRIPENDRA SIRCAR: That I shall deal with at the proper time. It does not arise now.

THE HONOURABLE MR. HOSSAIN IMAM: Then I shall have to intervene. The question is not only that we will have a reduced yield and that securities are liable to fall in value, but that if we have to maintain this portion of the fund at this particular percentage on the market value, that will mean that every time there is a valuation and if there is a fall in market value we will have to come forward and invest further money in Government securities. Then there is another difficulty. The market value of Government securities is more liable to fluctuate in accord with international affairs than other securities are liable to do so. As soon as there is a war scare you find Government securities tumbling down. As the Honourable Member says that he brought down by means of a Dutch auction this figure from 100 per cent. to 55 per cent., may we request him to auction it again in this House too, if there is no special sanction about the 55 per cent.

THE HONOURABLE SIR NRIPENDRA SIRCAR: No, I would like it to be 66 per cent.

THE HONOURABLE MR. HOSSAIN IMAM: Then move it and get it carried here, and face the Assembly again if, in your opinion, the security would not be sufficient unless we have two-thirds invested in this way.

[Mr. Hossain Imam.]

We can understand that. We could understand your coming here to get the sanction of this House and going back to face the Assembly with the higher quantum. But if you do not dare to do that, we can assure you of this much, that the Assembly, the terrible body which the Honourable the Law Member seems to be so afraid of, is not such a terrible tiger.

THE HONOURABLE THE PRESIDENT: You have no right to assume that the Honourable the Law Member is afraid of the Assembly.

THE HONOURABLE MR. HOSSAIN IMAM: I do not say that he is afraid of the Assembly, he is afraid of nobody.

THE HONOURABLE THE PRESIDENT: Then why say it?

THE HONOURABLE MR. HOSSAIN IMAM: He is a giant himself, but he makes out that he would not agree to amendments merely because he feels that the Assembly may not agree.

THE HONOURABLE THE PRESIDENT: He did not say that at all.

THE HONOURABLE MR. HOSSAIN IMAM: Well, Sir, his argument asking for some changes in this Bill was that he is not prepared to make any major changes of vital principle in this Bill.

THE HONOURABLE THE PRESIDENT: I remember very well, he said, "If it is 55, why not 56 or 57"? Any other Member can move such an amendment.

THE HONOURABLE MR. HOSSAIN IMAM: We have the list of amendments before us. There was one amendment on the quantum which has already been rejected and there is another amendment which has not been moved, so we are left only with this one amendment and one alone. May we request that as the Honourable the Law Member found it possible to reduce from 100 to 55 per cent., he may for the sake of this House agree to a further reduction of 5 per cent. only? That will not disturb the stability of the companies. It will not in any way harm them. There are insurers in India even today who continue to invest much more than 55 per cent. in approved Government securities. It will not be a bar to those who are already indulging in this habit of placing their maximum amount in Government securities from doing so, but it will lessen the burden of others. The reason why we want this is, that at this moment Government securities are standing at a very high figure and if all the insurers enter the field and start buying Government securities and approved securities the market is likely to rise further temporarily and when it falls back again to its normal level, the insurers will have to buy further securities to make up the market value to 55 per cent. There is another difficulty which I wanted the Honourable the Law Member to elucidate, whether he exempts two sums in his deposit or not, firstly, the amount granted in loan, and the deposit under section 6? Whether these are to be deducted from the total life fund from the 55 per cent.? If it is to be reduced from 55 per cent. it

12 Noon.

would not be so harsh on the companies because they can have a possibility of investing more money in granting loans to policy-holders and thereby getting some higher return than is possible by means of these securities alone; but if it is to be reduced from the 100 per cent., if 55 per cent. only of the advances on policies is to be deducted, that will increase the burden. If you take Rs. 100, Rs. 10 is spent on loans on the policies; then you take 90 as the whole number and 55 per cent. of 90 will have to be invested and that will increase the burden.

Sir, I support this amendment.

THE HONOURABLE MR. G. S. MOTILALI (Bombay: Non-Muham-
madan): Sir, I rise to support the amendment moved by the Honourable Lala Ram Saran Das. My reason for supporting it is this. I had myself given notice of an amendment for bringing down such investments to 45 per cent., but feeling very diffident of that proposition being accepted by this House I prefer to support the amendment which has been moved in favour of reducing it to 50 per cent. I realize perfectly well that there is no mathematical calculation by which this figure has been fixed, but even behind these empirical formulae there is something working in the minds, subconsciously it may be, which shows what is the correct figure to arrive at. One hundred per cent. was probably suggested in the other House at one stage, but that House itself must have realized what would have been its effect on the policy-holder and the Indian insurance business which is in its infancy. Therefore 55 per cent. has been fixed. If it is now reduced to 50 per cent., although 5 per cent. relief will be small mercy, it is nevertheless a relief which this House will do well to give to the Indian insurance business. I know it will apply to United Kingdom insurers also. But if it does help us, we do not mind if it helps United Kingdom insurers. Another reason is, that it is not only in the interests of the insurance business in British India, but more than that, it is in the interests of the policy-holders to have the reduced limit. At present insurance companies calculate on a basis of four per cent. valuation. If they are to invest only 50 per cent. of life fund in Government securities, they will be left with five per cent. funds more to invest at a higher rate of interest. I do not want that they should put in their funds in investments which may apparently yield a very high rate of interest, but which may not form good securities. I want the insurers to be saved from this particular temptation. They should not feel that since they get only a very small return on the 55 per cent. of their funds, they should go in for investments which will fetch a sufficiently large return to compensate for the low yield from the former. I do not say it will give them a very substantial relief, but even this relief will be welcome and it will go to advance the interest of the policy-holders. Not only the insurance companies will be the gainers but the benefit will ultimately go to the policy-holders; otherwise the policy-holders will get so much less. This is one aspect of the question and another aspect of it is that there are foreign companies, United Kingdom companies. They have large investments in their own countries. The business which they create here is a small part of their other world-wide business. There is no restriction in the United Kingdom on their investment. Even in Canada, they are required to hold their investments in Canada itself, but they are not required to hold their funds in gilt-edged

[Mr. G. S. Motilal.]

securities to any extent. All that they are required to do is that two-thirds of their life funds should be held in Canada. In the United Kingdom the companies are allowed to invest their funds in other than Government securities. For instance, if there are concerns which have paid interest to their shareholders continuously at a particular percentage for, say, five or seven years, the insurance companies are allowed to go in for such shares and the same concession is allowed in Canada. Taking all these circumstances into consideration, I appeal to every Member of this House to support this amendment for fixing the limit at 50 per cent. It will no doubt be small relief but that relief will surely go to the policy-holders and though in a very small way we shall still help Indian insurance business.

For these reasons, Sir, I support this amendment.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, I would also like to support this amendment. There is no sanctity attaching to this figure of 55. There is common ground between Sir Nripendra Sircar and us that there should be a certain percentage of investments which should be considered safe for the purpose of protecting the interests of policy-holders. The only question is whether this figure should be 55 or 50. And the reason which determines our attitude is this. The interests of the policy-holders have also to be looked to. If 55 per cent. is held in Government securities, then the interest yield of the insurance companies on these securities will be less and the policy-holder will not be able to get the interest that he is getting now. Sir, the Government securities are now yielding between one and a half and two and three-quarter per cent. net and if 55 per cent. of the net liabilities is to be invested in the manner provided in the Bill, the balance of 45 per cent. about which there is no restriction will have to yield 6½ per cent. net if the average yield is to be anything in the neighbourhood of four and a half and four and a quarter per cent. Sir, I understand that Indian insurance companies are earning on an average in the neighbourhood of five per cent. and are therefore able to have valuations done on interest basis between four and four and a half per cent. If the average yield is considerably reduced, companies will have to adopt three and a half to four per cent. interest when making the valuations. Sir, it is not therefore wrong to say that on such a basis most of the Indian companies will show a very small surplus, which means that the policy-holder will have no bonus or very little bonus. Sir, if the bonus is low or if the bonus becomes non-existent, there will be a check to the growth of Indian insurance.

For these reasons, Sir, I would support the amendment of the Honourable Lala Ram Saran Das.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Sir, when my Honourable friend Mr. Hossain Imam was speaking, the Law Member said that he was not satisfied with the percentage fixed by clause 26 but would like that the insurance companies should invest at least 66⅔ per cent. of their liabilities in securities of the character specified in the clause we are discussing. When the Bill was being discussed in another place, my Honourable friend

the Law Member expressed an even more extreme opinion. He said he would like that a sum equivalent to the whole of the liabilities should be invested in Government securities. I can understand my Honourable friend's point of view.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Not 100 per cent. in Government securities, no.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I readily accept the statement made by the Honourable the Law Member. But even so, it does not seem to me that he was quite reasonable in giving expression to that opinion. I can understand his point of view. He wants that the money of the policy-holders should be entirely safe. Now, we all desire that there should be as much security as is possible for the policy-holders but we have also to see whether the policy-holder gets an adequate return on the money that he pays. He wants, roughly speaking, not merely interest on the amount invested by him but also a bonus. We have, therefore, to see whether we can combine a good yield with security or not. If the two cannot be combined naturally we shall have to think of security and security alone, but if the two can be combined, I cannot see how my Honourable friend's insistence on the whole or a very large part of the liabilities of insurance companies being invested in securities of the kind mentioned in clause 26 can be held to be justified. We have suffered in the past because the insurance companies were allowed to invest their assets as they liked. It is desirable, indeed it is necessary, that some limitation should be placed on their power of investment. But while that principle will be agreed to by everybody, it is not necessary that we should go to the other extreme and ask that the whole of the assets or very nearly the whole of the assets should be invested in securities which might be regarded as cent. per cent. safe.

We have now to see whether any harm would accrue if the amendment placed before the House by my Honourable friend Lala Ram Saran Das is accepted. The acceptance of his amendment would not reduce the figure to be invested in Government securities. It would not enable any insurance company to invest the whole of its assets outside the country to which the Honourable the Law Member rightly objects. Again, we have to see whether the margin of safety would be in any way diminished if my Honourable friend's amendment is accepted. If the law allows the insurer liberty with regard to the investment of 45 per cent. of his assets, nobody here will say that, if this freedom were enlarged to the extent of five per cent. it would be misused or that the interests of the policy-holders would in any way be jeopardized. If that be so, I for one do not see any reason why the amendment should be opposed. It is perfectly true, as my Honourable friend the Law Member has pointed out, that the fixation of any figure would be more or less an arbitrary matter. But if we lay down that half the assets should be invested in a particular manner and that the remaining half might be invested in any manner at the discretion of the insurer, I think we shall strike a fair mean between the requirements of security on the one hand and a good yield on the other. If I felt, Sir, that the amendment proposed by my Honourable friend Lala Ram Saran Das was to the detriment of the policy-holders and in the interests of the capitalists, I would strenuously oppose it. It seems to me, however, that the amendment is entirely in the interests of the policy-holders. I accordingly give it my full support.

THE HONOURABLE SAIYED MOHAMED PADSHEAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I had no intention whatever of intervening in this debate for to my mind the figure of 45 or 50 or 55 which has been suggested in the original Bill or in the amendments before us, had nothing very much to choose between them. There was no difference in them because, whatever the figure is which is arrived at, there is no particular virtue or sanctity attached to it. But, Sir, the object in fixing this proportion is quite apparent. The object is to protect the interests of the policy holder. And if that is our object, we have got to judge of this figure only from the point of the security it affords to the policy-holder. And looked at from this point of view, I feel, Sir, that the amendment that has been proposed is in the right direction. I have been persuaded to hold this view especially by one of the arguments that were advanced by my Honourable friend Mr. Motilal. He has very rightly stated, Sir, that the very object for which 55 is insisted upon would be defeated if the result of this would be, as it apparently is, to restrict the freedom of the companies in respect of their assets, because he was of opinion that if the company is made to feel that a larger part of its assets are locked up in Government securities, which, after all, do not yield quite as much as other kinds of securities, the temptation for that company will be all the greater to try and make as much profit as possible out of the residue of the assets about which it has a free hand. Therefore it is very probable that the company would be tempted to go in for investments in regard to 45 per cent. of the assets which may not be quite as safe or secure as the approved securities or the Government securities. In order to make this temptation less attractive it would be better to give a freer hand to the companies to dispose of their assets. Therefore, Sir, I feel that instead of compelling companies to invest their assets in Government and other approved securities to the extent of 55 per cent., we should allow them to invest only 50 per cent. of those securities, so that the companies may have a freer hand in making their choice of the securities in regard to the rest of their assets. Therefore, Sir, I support this Motion.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Sir, the figure 55 is not sacrosanct but the Honourable the Law Member has told us that that was arrived at after a good deal of discussion with the Leaders of all the Parties; and if we go on tinkering at it I do not know where we shall stop.

Question put and amendment negatived.

THE HONOURABLE MR. J. REID KAY (Bengal Chamber of Commerce): Sir, I move:

"That in sub-clause (1) of clause 26 the word 'British' where it occurs for the second time be omitted."

This has already been referred to this morning and I hope will be supported.

Question put and amendment adopted.

THE HONOURABLE MR. R. H. PARKER: Sir, I beg to move:

"That in sub-clause (1) of clause 26 for the words 'of the reserve necessary to meet outstanding claims' the words 'necessary to meet the liability' be substituted."

This is merely intended to clarify the position. There are liabilities in this connection but I submit there are no claims and certainly no outstanding claims and that these words merely make it plain.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, the phraseology is certainly improved and we accept the amendment.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, I do not feel quite happy over this amendment because the liabilities are of various kinds and there is no attempt to define in respect of what kinds of liabilities these investments are to be made. There may be other kinds of liabilities than the claims referred in the sub-clause as it stands. I think the clause as it stands is quite ample to protect the interests of the policy-holders because claims in respect of policies matured and outstanding claims in respect of policies are both covered. The words that are sought to be substituted may introduce complications where liabilities are not defined. How are they to be ascertained from time to time and how are investments to be made? I think the amendment is unnecessary and surely not necessary in the interest of the policy-holders.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, may I offer a word of explanation, if you will permit me? I accepted the amendment because I feel some doubts about the word "outstanding". The man whose policy has not matured but is maturing,—is that an outstanding claim? I feel some difficulty about that and as I thought this language is better I accepted it.

THE HONOURABLE MR. RAMADAS PANTULU: But the word "liability" is not defined anywhere.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member change his mind?

THE HONOURABLE SIR NRIPENDRA SIRCAR: No, Sir. It is a contingent liability and I accept the amendment.

Question put and amendment adopted.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I move:

"That in sub-clause (1) of clause 26 for the word 'twenty-five' the word 'twenty' be substituted."

As my main amendment has unfortunately fallen through, I want to move this amendment in order to bring some relief to the insurance companies. This amendment is a very modest one and it does not put Government to any fear of the company not keeping sound and liquid funds in hand. The difference in my amendment is only that investment in purely Government paper be reduced by five per cent. and corresponding increases be made in approved securities. So I hope that in order to help industry and commerce and to secure more bonus to policy-holders, the Honourable the Law Member will agree to this amendment, as it does not at all affect the security and the liquidity of the funds invested by companies.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, apart from the objections which I have already indicated and which I have no desire to repeat, I would like to point out to the House that although this would have been fit and proper if the first amendment had been carried, now if this is carried there will be a gap of five per cent. If Honourable Members will turn to clause 26 (1), it says 25 per cent. in Government securities and 30 per cent. in Government or other approved securities: if the former is made 20, it becomes 50 per cent. in all: this is not my only objection: the previous objection I have raised stands good.

Question put and amendment negatived.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I move:

"That in sub-clause (1) of clause 26 the following words be omitted, namely:
'or securities of or guaranteed as to principal and interest by the Government of the United Kingdom.'"

At the end of clause 26 (1) after the 30 per cent. of approved securities, the words "securities of the United Kingdom" are also included here. Now, there is no obligation even under the Government of India Act, as it stands, that wherever investment has to be made in Indian securities it should also include United Kingdom securities. We are not under that obligation. There is no particular reason why we should go out of our way and provide that we should also include and give the facility of investing in United Kingdom securities. Another reason is that these securities are not quoted in this country: neither on the Exchange at Bombay nor in the Calcutta Exchange do we get quotations for them. But a more cogent objection is this, that any one who invests in United Kingdom securities has got to pay income-tax, both in this country as well as in the United Kingdom, and the Indian treasury has got to give him a refund on the tax he pays in this country and therefore the Indian treasury is a loser. I am sure if the Honourable the Law Member was also the Finance Member or if he was holding the Finance portfolio, he would have pointed out this objection. All these insurance companies are very large investors in Government securities and if they invest their funds out of India the Indian treasury stands to lose. For this reason I would request this House to drop the words "United Kingdom securities" and confine the provision only to Indian securities. These securities may be safe—I am not disputing that—but if the Indian treasury stands to lose we know that in one way or other the taxpayer here will have to pay and make up for the loss. For these reasons I move this amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. As I explained to the House on more than one occasion, both the percentage and also what amounts are to be included in clause 26 (1) was agreed to by all sections in the Assembly: the Congress group, the Independent group, the European group—everybody was generally agreed on this arrangement which I think is but reasonable and just. My Honourable friend made a point that if I had been Finance Member—thank Heaven I am not not having any knowledge of finance (Laughter)—I would have taken a different view. May I inform him, for whatever it is worth, that the Finance Member was present at this conference which agreed to the acceptance of these securities? I do not think I

shall be justified in wasting the time of the House by repeating the same arguments every time an amendment comes on. I simply say that I cannot accept this amendment.

Question put and amendment negatived.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That in sub-clause (1) of clause 26 after the words 'securities or securities' the words 'of or' be omitted."

My object in moving this amendment is. We ought to restrict investment to India and if we have to go outside the principal also must be guaranteed by the Government of that country.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose it on the grounds indicated during my last speech.

Question put and amendment negatived.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That the *Explanation* to sub-clause (1) of clause 26 be omitted."

This *Explanation* also applies to companies incorporated or domiciled in the United Kingdom. My submission is that the people of the United Kingdom come in by overriding the provisions of the Government of India Act, and therefore no specific mention of them is necessary.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I think this is a very important *Explanation* which for the first time has been introduced in the Indian statute. If my Honourable friend's objection had been directed to the United Kingdom being included, one could have understood it, but he wants the whole *Explanation* omitted, and therefore I cannot support it. I really welcome this *Explanation* which, for the first time shows, though not in affirmative terms, what the Indian companies are, and therefore I feel that this *Explanation* should stand as it is.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose this amendment.

Question put and amendment negatived.

THE HONOURABLE MR. J. BARTLEY: Sir, I beg to move, with your permission, the whole of the following:

"That in clause 26 in sub-clause (2)—

- (i) after the words 'An insurer incorporated or domiciled elsewhere than in British India or the United Kingdom shall' the words 'subject to the provisions of sub-section (3)' be inserted;
- (ii) after the words 'equivalent to' the words 'not less than' be inserted; and
- (iii) for the words and figures 'as to 33½ per cent. thereof in Government securities, and as to the balance' the words 'thirty-three and one-third per cent. of the said sum in Government securities and the balance' be substituted."

Sir, the first portion of this amendment is made for the reason that I expressed in moving amendment No. 109 which stood in my name, to

*Not corrected by the Honourable Member.

[Mr. J. Bartley.]

insert a reference to the exception which is made by sub-section (3). The second one is a formal one, and the third one is to bring the wording of sub-section (2) into line with that adopted in sub-section (1). It makes no change in the substance of the clause whatever.

Question put and amendment adopted.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I beg to move:

"That in sub-clause (2) of clause 26 the word 'British' where it occurs the second time be omitted."

Sir, I want that it should operate in India also.

THE HONOURABLE MR. J. BARTLEY: Sir, we are prepared to accept this amendment.

Question put and amendment adopted.

THE HONOURABLE MR. R. H. PARKER: Sir, I am not moving No. 140, but I wish to move No. 140 (a) which reads:

"That in sub-clause (2) of clause 26 for the words 'of the reserves necessary to meet outstanding claims' the words 'required to meet the liability' be substituted."

This is exactly on the same lines as the previous one.

Question put and amendment adopted.

THE HONOURABLE MR. J. BARTLEY: Sir, I beg to move:

"That in clause 26 in sub-clause (3) for the words 'at the time of the commencement of the Act' the words 'at the commencement of this Act' be substituted."

This is a purely verbal change, and I hope the House will accept it.

Question put and amendment adopted.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I beg to move:

"That before the *Explanation* in clause 26 the following sub-clause be inserted, namely:

- (5) Every insurer carrying on the business of any class of insurance business other than life insurance business in British India shall in respect of such class of insurance business transacted by him in India keep in British India invested in approved securities assets of an amount at least equal to the total liabilities of the insurer to policy-holders in India, the value of such total liabilities being not in any case less than forty per cent. of the amount of the net premia written during the year."

The effect of this amendment is that it clarifies what is the amount in respect of which this applies. As the clause stands at present, it applies to all sorts of insurance, but this amendment makes it applicable only to life insurance. I therefore move it.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, for reasons already given in connection with the other amendments relating to clause 26, I oppose this amendment, and apart from those general reasons, I do not agree to the introduction of 40 per cent. here.

Sir, I object to this amendment.

Question put and amendment negatived.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in clause 26 in sub-clause (4), *Explanation*, for the words 'the members of the Governing Body' the words 'the members of whose Governing Body' be substituted, and for the words 'of domiciles other than those of British India' the words 'domiciled elsewhere than in British India' be substituted."

This is merely a verbal correction intended to improve the language.

THE HONOURABLE MR. HOSSAIN IMAM: May I know what is the effect on Indian companies incorporated in Indian States?

THE HONOURABLE MR. J. BARTLEY: The words "domiciled elsewhere than in British India" have been substituted in place of the words "of domiciles other than those of British India". No change is made in the meaning.

THE HONOURABLE MR. HOSSAIN IMAM: Would it not be better to drop the word "British" and say "domiciled elsewhere than in India"?

THE HONOURABLE MR. J. BARTLEY: That is an entirely different point and requires a different amendment. My amendment is a purely drafting one.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 26, as amended, stand part of the Bill."

The Motion was adopted.

Clause 26, as amended, was added to the Bill.

Clause 26A.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in clause 26A (1)—

- (a) for the words 'on or before the 30th day of June and on or before the 31st day of December' the words 'within fourteen days of the 30th day of June and within fourteen days of the 31st day of December' be substituted; and
- (b) for the words 'investments made' the words 'as at the said dates the assets held invested' be substituted."

This is more than a mere formal amendment. It has a certain effect on the implications of the clause. As drafted the clause says:

"Every insurer registered under this Act....., shall twice in every year, namely, on or before the 30th day of June and on or before the 31st day of December, submit to the Superintendent of Insurance a statement showing the investments made in accordance with section 26....."

This does not prohibit the insurer from submitting that statement, say, on the 29th day of June, which would be "before the 30th day of June", and again submitting it on the 6th of July, which would be "before the 31st day of December", thereby nominally complying with the provisions of the section, but in reality evading them. What is required is that these statements should be made practically once in each half year, and that object will be attained if the wording is changed to the wording proposed by me, namely, that within fourteen days of the 31st day of June and within fourteen days of the 31st day of December he must make those statements. The statements must show the assets held invested as on 30th June and 31st December. The

[Mr. J. Bartley.]

purpose in changing the expression "investments made" to the expression "assets held invested" is to avoid the possibility of the words appearing in the clause being interpreted as requiring the insurer to report each separate investment made.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 26A, as amended, stand part of the Bill."

The Motion was adopted.

Clause 26A, as amended, was added to the Bill.

Clause 26B.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I move:

"That in clause 26B after the words 'surrender value' the following be inserted, namely:

'or for the purpose of travelling expenses or buying and maintaining a motor car'."

The clause, as it stands, without these words, forbids any loan being paid to a manager or an officer of an insurance company. For the purpose of travelling it is the ordinary practice to make a temporary advance or loan to the manager or some other officer who goes out for the business of the company. Some companies also make a loan for the purpose of purchasing a motor car or for maintaining it. That I take it is not the intention of the Legislature to forbid being done. I therefore move this amendment so that this facility may be allowed to the companies.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I oppose this amendment. It creates a big loophole if loans are to be allowed for travelling expenses, for buying motor cars or maintaining motor cars. We are rather afraid that there might be abuse if a loan is permitted under these specific heads. So, I oppose the amendment.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIR BAHADUR (Madras: Muhammadan): Sir, if there is any apprehension on the part of the Government that this liberty might be abused, a limit might be placed on the amount of the loan to be advanced, that in no case shall it exceed such and such an amount.

Question put and amendment negatived.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, will you permit me to mention a matter to you and to the House of which no specific notice has been given, but I consider it a matter of great importance and possibly the House and the Chair will agree to the course I propose. It appears that in clause 26B we are preventing loans being given on hypothecation of property, also on personal security, but it strikes me that if a loan is given without any security whatsoever, it is a hundred times worse but it is not roped in by this section. Therefore, Sir, if you will kindly permit me, I would like to add the words "or otherwise" after the words "on personal security". I would like to move an amendment, if I am permitted, for adding the words "or

I.P.M.

otherwise" after the words "on personal security". Otherwise, the whole section may be rendered nugatory by advancing loans without any security whatsoever, personal or on property. The words "personal security" may not with mortgage cover the whole field.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, we should like to elucidate whether it would not rope in even advances against securities?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, so far as advances on security are concerned on hypothecation of property—it is already there. Personal security is also there. But I am thinking of the case where there is no security and the man may take Rs. 500 as a loan. That is what I want to prevent.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY: If it is on hypothecation of approved securities?

THE HONOURABLE SIR NRIPENDRA SIRCAR: That is already forbidden—hypothecation of property. "Property" will include approved securities.

THE HONOURABLE MR. G. S. MOTILAL: The expression "personal security" is sometimes used, but the correct expression would be "without security". "No advance to be made without his giving security".

THE HONOURABLE THE PRESIDENT: I do not think so. There are securities quite different from personal securities.

THE HONOURABLE MR. G. S. MOTILAL: "Personal security" means without security. The man says, "I shall pay you". You call it "personal security."

THE HONOURABLE THE PRESIDENT: You may safely leave the phraseology to the Honourable the Law Member.

THE HONOURABLE MR. G. S. MOTILAL: If a manager or officer does give sufficient security, e.g., Government paper, then against that security is it intended that the insurer should not make him any advance?

THE HONOURABLE SIR NRIPENDRA SIRCAR: That is already provided for. We are not going to change it. Loan on hypothecation of property is not to be allowed. Therefore, loan on hypothecation of Government securities will not be allowed. I am making no change as regards that. There is a big door left open.

Question put and amendment adopted.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in the second proviso to clause 26B after the word 'Provided' the word 'further' be inserted; after the word 'contrary' the word 'shall' be inserted; the words 'date of', where they first occur, and the words 'the date of' after 'from the expiry of one year from' be omitted; for the words 'or officer', in both places where they occur, the words 'officer or partner' be substituted; and for the words 'hold such office from the expiry' the words 'hold office on the expiry' be substituted."

[Mr. J. Bartley.] •

This, I am afraid, Sir, sounds a complicated amendment, but it is in reality a completely simple one and is a purely verbal correction of the proviso which, when these amendments are carried out, will then read:

“Provided further that every existing loan to any director, manager, managing agent, auditor, actuary, officer or partner, notwithstanding any contract to the contrary, shall be repaid within one year from the commencement of this Act, and in case of default, such defaulting director, manager, managing agent, auditor, actuary, officer or partner shall cease to hold office on the expiry of one year from the commencement of this Act”.

The introduction of the word “partner” is necessary because of the appearance of the word in the main part of the clause and it was omitted by inadvertence in the proviso.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

“That clause 26B, as amended, stand part of the Bill.”

The Motion was adopted:

Clause 26B, as amended, was added to the Bill.

Clause 26C was added to the Bill.

Clause 26D.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I move:

“That in clause 26D for the words ‘except in so far as they are required’ the words ‘except in the case of deposits made with the Reserve Bank of India under section 6 or in so far as assets are required’ be substituted.”

As Honourable Members will see, there is no change in the intention of the section as it was originally drafted.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

“That clause 26D, as amended, stand part of the Bill.”

The Motion was adopted.

Clause 26D, as amended, was added to the Bill.

New clause 26E.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I move:

“That after clause 26D, the following clause be inserted, namely:

‘26E. None of the assets of an insurer carrying on life business shall be invested in mortgages except first mortgages.’”

Sir, I need not make any speech in moving this. If the Government accepts it, well and good.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose this amendment. Up to this moment the complaint against Government was that it was restricting investment. Now the complaint is that we have not sufficiently restricted it. Sir, the scheme of the Act is that up to 55 per cent. rules have been laid down as to what the form the security

is going to be. As regards the balance of 45 per cent., there is no restriction. They can buy Travancore securities; they can invest money in mortgages or what not. Of course I admit that first mortgages are more preferable than second mortgages, but it depends. Supposing there is property worth Rs. 5 lakhs and the first mortgage is only for Rs. 5,000. Why should not a second mortgage on that property be taken? It must depend on the honesty of the people who are investing the money in the mortgage. If we assume that they are dishonest, then even their first mortgage cannot be of much value.

I oppose the amendment, Sir.

Question put and amendment negatived.

Clause 27.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in clause 27 in sub-clause (1), for the words 'managing agents' the words 'a managing agent' be substituted."

This will go with No. 169, Sir, and it is merely to remove the plural and to replace the plural expression in sub-clause (1) by the singular.

Question put and amendment adopted.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I submit that amendment No. 168 and amendments Nos. 170 and 171 should be taken together, otherwise the amendment will not be complete.

THE HONOURABLE THE PRESIDENT: I think it is advisable to move and take them separately.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: I beg to move:

"That to sub-clause (1) of clause 27, the following be added, namely:

'except on an agreed salary inclusive of all sorts of commission except commission paid to insurance agents at the rate of 2 per cent. of the annual premium income subject to a minimum limit of Rupees one hundred and fifty per month and a maximum limit of Rupees one thousand and five hundred per month.

Provided, however, that no managing agent shall be employed by or seek employment under more than one insurer or be able to own or control more than a quarter of the share capital of the insurer.'

What I want to submit by my amendment is not to do away with managing directors altogether but to limit their pay and their powers. I propose that they should be allowed to remain provided that they agree to accept a salary of two per cent. of the annual premium income, subject to a maximum of Rs. 1,500 and a minimum of Rs. 150 a month, and that their powers be restricted by not accepting employment in more than one insurance company or owning or controlling more than a quarter of the share capital of the insurer. It has already been stated that we Indians are inexperienced in insurance business and there is ample scope for the extension of the business in the interior of the country, and as nothing can be done except through their personal initiative and skill managing agents should be allowed to continue, provided they do not abuse their

*Not corrected by the Honourable Member.

[Mr. Kumarsankar Ray Chaudhury.]

powers. My object in allowing them to do so only with restricted powers has been sought to be included in this amendment.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose any substantial change in the managing agency clauses and I oppose this amendment. But as we are discussing the matter now may I inform my Honourable friend Mr. Motilal, who has an amendment limiting the receipts of a managing agent to Rs. 2,000, that we are quite willing to accept the principle of that amendment. We are suggesting certain verbal changes which will be shown to my friend during the midday adjournment by my Honourable friend Mr. Bartley.

Question put and amendment negatived.

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 MR. J. BARTLEY: Sir, I beg to move:

"That in clause 27 in sub-clause (2) for the words 'managing agents' where they first occur the words 'a managing agent' be substituted, for the words 'managing agents' where they occur for the second time the words 'managing agent' be substituted, and for the words 'no compensation shall be payable to them by the insurer by reason only of the premature termination of their employment as managing agents' the words 'no compensation shall be payable to him by the insurer by reason only of the premature termination of his employment as managing agent' be substituted."

The whole of this, Sir, is formal.

Question put and amendment adopted.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I rise to move:

"That in sub-clause (2) of clause 27 for the words 'three years' the words 'two years' be substituted."

Sir, this is a very small amendment; it only substituted the word "two" for "three". The reason for bringing forward this amendment is that we have come down from 20 years to three years in the other House. The original proposal which Mr. Sen made was for a 20 years' term of life for managing agents as is the case of the Indian Companies Act. After that the original Bill which was introduced in the Legislative Assembly contained a provision for three years' life without any restriction on the remuneration that was to be paid to the managing agents. The Bill went to the Select Committee and there the Select Committee provided for a term of ten years, but they restricted the emoluments to Rs. 2,000 per month. The Honourable the Law Member and his official colleagues appended a Note of Dissent to the Report of the Select Committee intimating that they would prefer to restrict the period and we found that an amendment was actually moved in the other place to bring down the

period from ten to five years. Then, Sir, in the Assembly there were amendments given notice of by members of the Congress Party bringing the term from ten to three years. One amendment in particular was actually moved by Mr. B. Das which had this effect, but under the orders from his Leaders he withdrew his amendment after having moved it.

THE HONOURABLE THE PRESIDENT: We have nothing to do with what happened in the Assembly. You please say what you want to do here.

THE HONOURABLE MR. HOSSAIN IMAM: If we had that power to get any amendment which we liked, accepted by this House, then it would have been all right, but every minute we work we are handicapped.

THE HONOURABLE THE PRESIDENT: Of course you have got that power provided you get a majority.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, that is the greatest difficulty—how to get the majority? It is to convince the House.

THE HONOURABLE THE PRESIDENT: How can I help you against the constitution?

THE HONOURABLE MR. HOSSAIN IMAM: I want to convert the majority to my point of view. Therefore I am giving them a short history of this measure, how it all came about. Seth Govind Dass also gave notice of a similar Motion. I would not go further into all the names of the people who had given notice and what were their Motions. Suffice it to say that the Government at that moment wanted to change the period from ten to five years and the Congress, though some of its Members were individually of the opinion that the term should be reduced, was not prepared to allow three years with fixed remuneration to be passed. Mr. Satyamurti in his speech was quite explicit in stating, and if necessary, I could quote his exact words, but according to your ruling I am debarred, I will, therefore, not quote him. I say Mr. Satyamurti made it distinctly clear that his Party stood for a definite term. There was also the question whether there should be a fixed remuneration or not. If we did not fix up a remuneration, they would agree to a term of three years.

THE HONOURABLE THE PRESIDENT: Is all this for the edification of Mr. Ramadas Pantulu!

THE HONOURABLE MR. HOSSAIN IMAM: No, because he knows all this better than me! All credit is due to the Congressmen here that they are not of the same opinion as in the other place.

THE HONOURABLE RAO BAHADUR SIR A. P. PATRO: They are not as bad as the others!

THE HONOURABLE MR. HOSSAIN IMAM: I will not say that; but I can, at least, say that the Honourable the Law Member regarded it as a sight for the gods when Mr. Satyamurti stood up to advocate the cause of the poor managing agents and Sir H. P. Mody was furious with the Honourable the Law Member, representing an autocratic Government set, being guilty of doing things which were socialistic.

THE HONOURABLE RAO BAHADUR SIR A. P. PATRO: He was wild with himself!

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I wanted to clear up the position to the Members of this Honourable House—that there was no unanimity in the other place about this term of three years. This was accepted as the next best thing. Mr. Jinnah was keen and all credit is due to those Congressmen who were with him; one was named in the other House, i.e., Professor Ranga. They wanted to terminate this system by a stroke of the pen. The trouble was that neither Mr. Jinnah nor Professor Ranga had that backing behind them which the other Party could command or the Honourable the Law Member can do here.

THE HONOURABLE THE PRESIDENT: Surely you do not mean to suggest that all those men are superior in ability to the Members of this House?

THE HONOURABLE MR. HOSSAIN IMAM: No, Sir, I am telling this House that the other place was not unanimous in demanding the three years with restricted remuneration. All that I wish to urge is that as that House merely accepted it as there was no possible alternative to the Bill for want of any amendment either better or worse than this, therefore, it would be quite proper for this House to revise it, if this change is thought to be better. I do not say that merely the fact that there was no unanimity in the other place is enough reason for us to change it. Now the reason why I brought forward a period of two years was because I took my cue from the Honourable the Law Member. In the Indian Companies Act he had provided that for banking companies the managing agency system will subsist for only two years. Now, as we have all agreed that insurance is very much nearer to banking companies than to the other industrial concerns because we are already providing for a termination of the managing agency system while we maintain it in the industrial concerns, therefore, in order to have a uniform law affecting bankers and insurers I wish to substitute two for three years.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I am afraid I must oppose the amendment of my Honourable friend Mr. Hossain Imam. He went, Sir, a great deal into the history of what happened in the other place. But he has not advanced any reason why two years should be accepted in place of three.

THE HONOURABLE MR. HOSSAIN IMAM: Banking companies.

THE HONOURABLE MR. G. S. MOTILAL: That is the only reason advanced by him. Because in the case of banking companies a shorter period has been fixed he argues here also it should be two years. But I hope he realizes the difference between banking and insurance companies. Therefore the analogy does not apply. Coming to the history which he has used as his reason, he forgets one very important result of it and that is that the greatest common measure of agreement was achieved on three years.

THE HONOURABLE MR. HOSSAIN IMAM: Because there was no alternative.

THE HONOURABLE MR. G. S. MOTILAL: When so many of us put our minds together it is not possible that each one of us should take the same

view in a matter like this. Intelligent men may take different views and all that they could do was to strike upon the greatest measure of common agreement that the period should be three years. Therefore, that greatest common measure should not be disturbed.

Sir, I oppose the amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. I will not like another speaker go into the question of what happened in the Congress camp or how Congress Members here compare with their colleagues in the other place, and so on. I can only say that throughout the debates on this Bill I have not met with any unreasonable opposition whether from the Congress or from any other group. It is not possible that my opinion will be shared in by every section of the House, but in every section of the House, in the lower House and it is the same here, I had or have no reason to complain of any unreasonableness or anything of that kind. Indeed, I acknowledge gratefully the co-operation of all sections in the other House for improving the Bill. Sir, the only argument which has been advanced, is the analogy with the banking companies. I admit that to some extent, to a large extent, there is analogy, but where the analogy stops is this. Managing agents of Indian banking companies, how many are there? One or two or three? But this is going to affect a very much larger number of people. That is a substantial difference between the position of banking companies and the position of insurance companies having managing agents. And after all, one has got to remember that this is a question of mainly of interest to Indian companies. European insurance companies generally are not troubled with managing agents. And therefore, Sir, for the reasons which I have already given in my previous speech, I think three years is not an unreasonable period for allowing these companies to adjust their affairs before doing away with managing agents.

Question put and amendment negatived.

THE HONOURABLE MR. G. S. MOTILAL: Sir, with your permission, I propose to move a slightly differently worded amendment which carries out the same intention. Sir, I move:

"That in sub-clause (5) of clause 27 for all the words occurring after the words 'for his services as managing agent more' the following be substituted, namely:

'than two thousand rupees per month in all, including salary and commission and other remuneration payable to and receivable by him for his services as managing agent.'

Sir, as the clause stands, it splits the managing agents' remuneration into two parts and the effect of it is that he can only receive Rs. 1,000 by way of salary and another Rs. 1,000 by way of other remuneration. Therefore, in some cases where there is no other remuneration he can receive only Rs. 1,000. Therefore, this amendment is moved so that in all, whether by way of salary or by way of remuneration, he should be able to receive Rs. 2,000.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I accept the amendment,

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 27, as amended, stand part of the Bill."

The Motion was adopted.

Clause 27, as amended, was added to the Bill.

New clause 27A.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I move:

"That after clause 27 the following clause be inserted, namely:

'27A. After the commencement of this Act no managing agent or managing director or secretary or members of the firm of managing agent or secretaries shall receive any remuneration or allowances or reward directly or indirectly in any capacity in addition to the sums specified in section 27 except actual travelling expenses of journeys undertaken on work of the insurer.'

Sir, I do not think this is an amendment which requires any speech. I hope it will be acceptable.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: The Honourable Mover has given no reason in support of his amendment and possibly it is not necessary to give any reasons for my opposition either. But I may inform the House that while in certain extreme cases a case may be made out in support of this amendment it will create difficulties which it is not easy to contemplate now. Suppose my friend Mr. Hossain Imam is on the managing agency board and he gets Rs. 2,000 as managing agency remuneration. If he is asked by the company to defend them in a cheating case or any other serious offence, why should he not get his legal fee? Similarly one of the directors may be an architect and he may give his professional advice. He will be prevented from getting his remuneration either directly or indirectly because he happens to be a member of the managing agency. I oppose this amendment.

Question put and amendment negatived.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That after clause 27 the following clause be inserted, namely:

'27A. No insurer shall after two years of its inception spend beyond a prescribed percentage of the total annual premium income for the annual office establishment under him including the employment of intermediate agents between him and the insurance agent exclusive of the commission payable to such insurance agents. The percentage prescribed for this section shall be five per cent. more in the case of insurers coming under clause 8 (b) of section 2 whose share capital is less than rupees one lac than in case of other insurers. And no existing contract to the contrary shall remain in force beyond three years after coming into force of this Act.'

The object of this amendment is to provide a limit for the expenses beyond commission paid to the insurance agents. This will include the salary of the chief agents and other intermediate agents employed by the insurer. I make an exception in the case of those insurers who have just begun their business for two years and I want to make a difference between insurers coming under clause 8 (b) of section 2 whose share capital is less than Rs. 1,00,000 and give them five per cent. more for their expenses.

*Not corrected by the Honourable Member.

While a limit has been imposed upon the poor insurance agents, no such limit has been imposed on the salary of chief agents and other intermediate agents and I submit a limit ought to be put upon them, giving some preference to new companies and also companies with smaller capital.

With these objects, Sir, I move my amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose this amendment. The House is well aware that most people, at any rate I include myself among them, started with the idea that instead of fixing this maximum commission, prevention of rebate, and so on, the proper method to follow is to fix the expense ratio. We were all agreed on principle there but when it came to working it out, equally, we were not convinced that it was possible to fix the expense ratio for these companies. What my Honourable friend proposes is something which will stagger the commercial community for this reason. He says: "No insurer shall after two years of its inception spend beyond a prescribed percentage". If we turn to the definition of "prescribe" it means "prescribe by rules made under section 101". That is to say, a Government official at Delhi or if it is a hot month, at Simla, will decide what amount of expense is going to be incurred by an insurance company. I hope that evil day will not come. The Superintendent and the Government officials have enough to do and this is a duty which they should not be asked to perform, namely, that they should decide that only 23-615 should be spent and not 24 per cent. This thing should be left to the management and not to the Government officials under rules.

Sir, I oppose the amendment.

Question put and amendment negatived.

Clause 28.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in clause 28 (a) for sub-clause (2) the following be substituted, namely:

'(2) The Court may, on the application of an insurer and after giving notice to and hearing the Superintendent of Insurance, forbid such action by the Superintendent, if the insurer satisfies the Court that it is unnecessary in the circumstances.'

This merely changes the order of the wording in the interests of clarity.

Question put and amendment adopted.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in clause 28 in sub-clause (3) after the word 'insurer' a *sauz-olen* be inserted and for the words 'and a copy of each to' the words 'and a copy of such report shall be furnished to the' be substituted."

Question put and amendment adopted.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I move:

"That to clause 28 the following sub-clause be added, namely:

'(6) No insurer shall book new business during the period of investigation under this section.'

Sir, the reason why I move this amendment is. If the Superintendent of Insurance conducts an investigation, it means that a *prima facie* case against the insurer has been established and therefore to allow a person

[Mr. Hossain Imam.]

who is suspected of not maintaining his accounts properly or not doing his business properly to go on booking new business would mean
 3 P.M. that we are simply allowing him to rob. If he were in a good position, there would not be any reason for the Superintendent of Insurance to interfere with and have an investigation into his affairs, but as soon as he starts his investigation, it is presumed that he will not do so until he is satisfied that there is something amiss in the conduct of the insurance business. For this reason I move this amendment.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, I beg to oppose this amendment. An enquiry or investigation under this clause may take a long time; and we have just accepted an amendment under which the insurer may go to court. The court may take a very long time to give its decision and it would be inadvisable to stop the business pending an investigation into the affairs of a company. It will result in a great loss to the company.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. I think it would be extremely hard if, while the investigation started and at the end of it it was found that there was really no case, the man should be prevented from carrying on business. If people knowing that the investigation is coming would still have confidence in this company and they will book insurance with them, I do not see why we should make a hard and fast rule that the man should be prevented from booking new business before his guilt has been proved.

Sir, I oppose the amendment.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 28, as amended, stand part of the Bill."

The Motion was adopted.

Clause 28, as amended, was added to the Bill.

Clause 29 was added to the Bill.

Clause 30.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in clause 30 (4) for the word, brackets and figure 'sub-clause (3)' the word, brackets and figure 'sub-section (3)' be substituted and the word 'the' before the word 'registration' be omitted."

These are merely formal, verbal alterations, Sir.

Question put and amendment adopted.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-clause (1) of clause 30 the word 'life' wherever it occurs be omitted."

My object is to bring this section into conformity with the heading, which speaks of the transfer of insurance business whereas the section deals only with life insurance.

THE HONOURABLE SIR NRIPENDRA SIRCAB: Sir, I oppose the amendment. No one has yet suggested that these provisions should be extended to other forms of insurance.

Question put and amendment negatived.

***THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY:** Sir, amendments Nos. 187 to 199 inclusive go together and I shall only make my general observations with regard to all of them. My general remark with regard to all these amendments is this. But I shall first move my amendment No. 187, which runs:

"That in sub-clause (1) of clause 30 the brackets, letter and figures and words '(a) (ii) or sub-clause' be omitted."

My general observation is that I want that strictly Indian business should not be allowed to be mixed up and amalgamated with others which are not strictly Indian business. Therefore I want that provisions should be made preventing such amalgamation.

THE HONOURABLE SIR NRIPENDRA SIRCAB: Sir, I oppose the amendment. No one is compelling any new company to amalgamate with another company. It is a matter of arrangement between the two companies, and the two companies must be carrying on business here before amalgamating. I do not see any reason why any Indian company should be prevented from amalgamating with any company it chooses and which is permissible under the law.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 30, as amended, stand part of the Bill."

The Motion was adopted.

Clause 30, as amended, was added to the Bill.

Clause 31.

***THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY:** Sir, I beg to move:

"That in clause 31 the words 'if for special reasons it so directs' be omitted and after the words 'the application to be sent to' the words 'the Superintendent of Insurance and if for special reasons it so directs to' be inserted."

My object is that this amendment and the next one require that notice should also be sent to the Superintendent of Insurance. That has been omitted and that is why I want to move these two amendments. So if my amendment is accepted, clause 31 will read like this:

"When any application such as is referred to in sub-section (3) of section 30 is made to the Court, the Court shall cause notice of the application to be sent to the Superintendent of Insurance and if for special reasons it so directs, to every person resident in British India....."

THE HONOURABLE SIR NRIPENDRA SIRCAB: Sir, I oppose the amendment. This clause was agreed to unanimously and for very good reason. Every section of the House realized that by reason of changes in law made by the present Bill, many of the smaller companies will be forced or willing to have amalgamation. Therefore, the idea underlying

*Not corrected by the Honourable Member.

[Sir Nripendra Sircar.]

this clause is not to make amalgamation too difficult; and it may well be that in a case where the policy-holders are under the scheme of amalgamation so well treated that the court will not require the trouble and the time which will be taken in serving every single policy-holder all over India and probably outside with a notice; so, that latitude has been given to the court and I am opposed to its removal.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 31 stand part of the Bill."

The Motion was adopted.

Clause 31 was added to the Bill.

Clause 32 was added to the Bill.

Clause 2.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, before you proceed with the further amendments, may I suggest that we might now revert to clause 2 of the definitions and then come back to the clauses as they stand in the Bill.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I feel that there are certain clauses which will be difficult, if not almost impossible, to deal with unless we know what those definitions mean and therefore I wholeheartedly support my friend's suggestion. The clauses which I feel should stand over are 33, 35, 36, 38, and so on. But I have no objection to our stopping here for the moment and going back to the definitions.

THE HONOURABLE THE PRESIDENT: You are quite satisfied that no complications will arise subsequently?

THE HONOURABLE SIR NRIPENDRA SIRCAR: On the other hand, it will be difficult for the Members and also for myself to go on with clauses like 35 and 37 without knowing exactly what an insurance agent means. The whole thing will turn on the definitions.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I beg to move:

"That in sub-clause (2) of clause 2 after the words 'Provincial Government' where they occur the second time, the following be inserted, namely:

'and stock or debentures of, or shares in Indian Railway Companies the interest whereon shall be or shall have been guaranteed by the Secretary of State for India in Council or by the Secretary of State or by the Government of India.'"

Sir, this is a very modest proposal and I hope the Honourable the Law Member will include these securities in the list of approved ones. After all, the Government has guaranteed the interest after being satisfied so minimum profits are guaranteed. As the investment on such railways has proved profitable, there is no reason why the Government should not include these securities among the approved ones. I may also mention that it will be a discouragement if the stocks of such railways are also not put on the approved list notwithstanding their sound position and successful working.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment and I once more repeat what I am afraid I have said so many times that insurance companies are not prevented by this Bill from investing in any stocks or debentures or shares in Indian Railway Companies. They have got 45 per cent. to play with. By all means let them buy these stocks up to the extent of 45 per cent. After very careful consideration we have decided as to what is permissible for the remaining 55 per cent. I object to the amendment.

Question put and amendment negatived.

THE HONOURABLE MR. J. BARTLEY: Sir, I beg to move:

"That in clause 2 (2) in the definition of 'approved securities' for the words 'municipal corporations in any Presidency town' the words 'municipal corporation' be substituted."

This is merely to remove an unnecessary repetition of some words.

THE HONOURABLE MR. HOSSAIN IMAM: On a point of information, Sir. We should like to know whether the word "corporation" covers municipal committees as well? Municipal corporations and municipal committees are the same.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I would like to know the statute under which a particular committee has been appointed? It must depend on the language of a particular statute.

THE HONOURABLE MR. HOSSAIN IMAM: In the mofussil towns, if the municipal committees issue debentures I would like to know whether they will be covered by this or not?

THE HONOURABLE SIR NRIPENDRA SIRCAR: The language here used is "municipal corporation". Under a particular statute there may be a provision that the municipal corporation may authorize somebody else to issue debentures. They are, after all, debentures of the municipal corporation, provided the statute allows delegation. I do not remember any such statute just now.

Question put and amendment adopted.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That item (ii) of sub-clause (b) (a) of clause 2 be omitted."

I do not know why an insurer who does not carry on any business in British India should at all be included in this Bill? The previous subsection "carries on that business in British India" excludes item No. (ii) from carrying on business in British India. Therefore, I do not find any significance for this sub-clause.

THE HONOURABLE SIR NRIPENDRA SIRCAR: What we have done is quite in conformity with the ordinary principles of law. I will, if I may, give an illustration. Supposing the Hindustan Corporation choose to do—I do not say they will—all their business in South Africa, then all their business will be in South Africa. Should not this Indian statute have

[Sir Nripendra Sircar.]

control over them if their registered office or principal place of business is here? This is the principle followed in other matters and I oppose this amendment.

Question put and amendment negatived.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That for sub-clause (g) (b) of clause 2 the following be substituted, namely:

'(b) any individual who is a natural born British Indian subject, or is naturalised under the Indian Naturalisation Act of 1926, or any incorporate or incorporated body of such individuals which is incorporated under the Indian Companies Act, 1913, or stands to any such individual or body corporate or incorporate of such individuals in a subsidiary relation carrying on the business of insurance [not being a person specified in sub-clause (c) of this clause].'

My object in moving this amendment is to strictly confine the definition of "Indian Company" to persons who are natural born Indians or naturalized under the naturalization laws of India, so that Indian companies may be sharply defined from companies which are non-Indian.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment and I think the Indian companies ought to be saved from their so-called friends. The idea is that an Indian company must have only Indian shareholders. But what will happen to the shares of these companies? They go into the market for sale. Now a Marwari proposes to buy shares and therefore we have to enquire into his domicile, whether he is a subject of His Highness the Maharaja of Jaipur or he is a British Indian subject? My Honourable friend also knows that once a name is put down on the share register no one, or at least he cannot make an enquiry as to who is behind. Therefore, any number of Englishmen, in spite of what he thinks is a very clever contrivance, can get shares through Indian nominees. This is a wholly impracticable and I think a mischievous suggestion.

Sir, I oppose.

Question put and amendment negatived.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That in clause 2 (g) (b) for the words and figures 'incorporated under the Indian Companies Act, 1913' the words 'incorporated under any law for the time being in force in British India' be substituted, and for the words 'that Act' where they first occur, the words and figures 'the Indian Companies Act, 1913' be substituted."

The second portion of this is consequential on the first and the first is intended to expand the words of this clause so as to take in not merely companies which are incorporated under the Indian Companies Act, 1913, but bodies like those co-operative societies to which Chapter IV of the Bill refers which are not incorporated under the Indian Companies Act but are specially incorporated under section 18 of the Co-operative Societies Act by virtue of their registration, and certain other ones which may similarly be statutorily incorporated by other Acts dealing with co-operative societies.

Sir, I move.

Question put and amendment adopted.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-clause 8 (c) of clause 2 the words and figures 'licensed under section 37' be omitted."

This is an anticipatory amendment because later on I propose to move an amendment doing away with the necessity of licenses to be granted to insurance agents.

THE HONOURABLE THE PRESIDENT: I think it will be better if the Honourable Member moves the other amendment first. I do not think he can move an amendment in anticipation. I have never heard of it before.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Then I will move this later on.

THE HONOURABLE MR. HOSSAIN IMAM: But if clause 2 is passed as it is, he cannot move any amendment.

THE HONOURABLE THE PRESIDENT: Before I put clause 2 I will consider the matter.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That in sub-clause 10 (a) of clause 2 after the words 'the whole affairs of a company' the words 'in British India' be inserted."

This clause deals with the definition of "managing agent". My object is to confine our law to British India only and not go beyond British India to determine what should be the position of managers and managing agents outside British India.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment and I am rather surprised because in the other place practically every Indian Member was rather insistent on this scheme which has been followed, namely, that each company, whether it is British or any other non-British foreign company or Indian company should show first of all its whole business and then its Indian business.

Sir, I oppose.

Question put and amendment negatived.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I was not unfortunately in my place when amendment No. 14 was called. I request you will give me permission to move it now.

THE HONOURABLE THE PRESIDENT: Is it very important?

THE HONOURABLE MR. G. S. MOTILAL: Yes, Sir.

THE HONOURABLE THE PRESIDENT: Honourable Members should be in their places when their amendments are coming up.

THE HONOURABLE MR. G. S. MOTILAL: There were several amendments before mine and I thought I would be able to come back in time.

THE HONOURABLE THE PRESIDENT: Very well, the Honourable Member may move it.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I beg to move:

"That in clause 2 after sub-clause (84) the following sub-clause be inserted, namely:

(8B) A Chief Agent means a person, other than an insurance agent licensed under section 37, who is appointed or employed by an insurer to carry on his or its insurance business within a specified area and who maintains his office and establishment within such area at his own expense in lieu of the remuneration paid to him on a percentage basis in regard to the business secured by him.

Explanation.—If a person occupying the position of a Chief Agent calls himself a special or a District Agent or by any other name he shall nevertheless be regarded as a Chief Agent for purposes of this Act."

Sir, my reason for moving this amendment for the acceptance of the House is that we have defined "managing agent", "officer" and "manager", but an important officer like the "Chief Agent" has not been defined, and if he is not defined, the omission leaves a loophole as to what a Chief Agent is. Sometimes there are persons who are selected as Chief Agents who only have to book the business of the concerns under their own control. We have managing agents, as you know, who control one, two, three or four industrial concerns and are sometimes appointed as Chief Agents and they do nothing except that they place insurance of the concerns under their control with the company. Thus they get more commission than they would otherwise get. So, unless there is a definition, the real object of the Bill will be defeated, which incongruity can be avoided in this way. If we define what the Chief Agent has to do, then some one by merely calling himself a Chief Agent will not be able to take such commission as he would otherwise get.

For this reason, Sir, I request the House to accept this amendment.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I rise to support the amendment which have been moved by my Honourable friend Mr. G. S. Motilal. This is a very important amendment, because the very basis on which we have constructed this Bill is really open to question, whether there exists any foundation or not? If, as I said when speaking on the Consideration Motion, we do not provide for safety by putting the brake on unscrupulous people, there was really no need for an Insurance Act altogether. It is because Government found that in the guise of insurance business people were carrying on a business which was not for the benefit of the policy-holders but for the benefit of the managing agents themselves that they have brought forward this Bill. If we do not include a definition of "Chief Agent" the result will be that all the managing agents and the members of the firms concerned will convert themselves into Chief Agents, and being a Chief Agent, there will be no bar to their exacting even 110 per cent. commission for booking business. I do not wish at this stage to discuss the merits or demerits of not fixing the commission of the Chief Agent. I simply say that the Chief Agent is a very important factor in the insurance business. We have defined the small fry like insurance agents, officers, etc. We have defined a managing agent under

the Indian Companies Act, we have defined the manager, secretary and other executive officers, and this Chief Agent who does not appear in any other business except insurance should not be left out. My Honourable friend has tried to give us a comprehensive definition. But even if this definition is not satisfactory, I think it is primarily the duty of the Government to find a definition that will meet with their approval, because, after all, the person who proposes may belong to the Opposition bloc, but the man who disposes is the denizen of the Treasury Benches who at this particular moment is the Honourable the Law Member, who is occupying that enviable position. Sir, I think that man's work is never perfect. If he were to aim at perfection, it would be impossible to attain it. If we were to ask for perfection, there will be no reason to accept the Government of India Act. But we know that we have to compromise, and we have always been told so by the Government. Even if the Honourable the Law Member finds defects in this definition, if the defects are not so grave as to make the whole thing topsy turvy, I think he should accept the definition of Chief Agent. Otherwise, he will be guilty of neglecting his own work.

Sir, I support the Motion.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I shall confine myself to the merits of the definition and not go into the question of limitation of commission. I confessed that the insurance people and myself and those who advised us have found it difficult to define "Chief Agent". I should have expected my Honourable friend to come out with something constructive instead of saying, "We depend on the Law Member to do the best he can". Let us take the definition and see whether the House will think that I am really trying to pick holes and make out minor points or the definition is 95 per cent. imperfect and only five per cent. perfect. The danger is, according to what my Honourable friend Mr. Hossain Imam said, these managing agents will now call themselves Chief Agents. Let us assume that. The Chief Agent would get Rs. 1,000 for office and conveyance allowance, and so on, plus 95 per cent. of the commission. Is he hit by this? Let us see, Sir. The Chief Agent must be a person who manages his office establishment at his own expense. He is not doing it. The company is paying for the office establishment; the company is paying for conveyance, the company is paying for house rent. It is not a small hole that I am picking. This is more a sieve than anything. Let us see the next point. "Specified area"—what is a specified area? In one sense, the whole world is a specified area. You cannot get beyond the world. On the other hand, let us look at an English firm or an English company—let us call it A. B. Co., Ltd., of Calcutta—the representatives at Calcutta of a big company in Canada or in America or in Scotland wherever it may be. What is their position? They are put in charge, let us say, of the business throughout the whole of India,—British India, Indian States and possibly a part of the Malay States and Burma. Is that a specified area? Again, what are their duties? Very often they are more than what is generally attributed to the Chief Agents. As I said, for one class you are trying to rope in, six different classes are escaping. Now suppose this Calcutta company A. B. Co., Ltd., called chief agents appoint district agents. Then the district agent in his turn appoints agents for the sub-divisions and lastly these sub-divisional agents appoint the licensed agents for doing the canvassing work.

[Sir Nripendra Sircar.]

Let us see how many come under this definition and how many escape. The chief agent means a person who pays for his office establishment within such area, and so on.' What about the next man, the district agents who have been employed by the Chief Agent? I am assuming the A. B. Co., Ltd., in Calcutta, is in the position of a chief agent, although as a matter of fact their powers may be higher than that of a chief agent. What is a district agent? Is he a chief agent within the definition? No. Therefore, the district agent can get anything he likes. Now come to the agent appointed for the sub-division. If he is not within the definition he can go on merrily. It is utterly futile. Of course I think with humility that I could claim to frame a better definition than this, but that would be bad enough. But this one will serve no purpose. All that has got to be done, instead of the chief agent getting entirely on a percentage basis, it will be necessary to give him a Rs. 1,000 or Rs. 500 for certain facilities like house rent or travelling expenses or pay of clerks, just as in the case of managing agents of some industrial concern, and be done with your definition. You can drive, not a coach and four, but a coach and twelve through it. It serves no purpose. Even if this definition was satisfactory I would have objected on other grounds.

Question put and amendment negatived.

THE HONOURABLE MR. P. N. SAPRU: Sir, I move:

"That in sub-clause (12) of clause 2 the words 'who shall be a qualified actuary' be omitted."

Sir, sub-clause (15) of clause 2 lays down that the Superintendent of Insurance must be an actuary. Now the sub-clause prescribes a statutory qualification for the position of the Superintendent. The question is, why is it necessary to have a statutory qualification? The Superintendent will be appointed by the Central Government. Is it not possible to trust the Government of India? Is it necessary to tie their hands? Must we assume that if a statutory qualification is not laid down the Government of India will refuse to consider the claims of actuaries in making the appointment or refuse to attach importance to the fact that, in addition to other qualifications, the man whom they are appointing is also an actuary? My amendment therefore would not rule out the appointment of an actuary. It removes a statutory bar against the appointment of a person who is not an actuary. All that my amendment would do is to give a wider discretion to the appointing authority. It would not fetter the discretion of the appointing authority as the clause in its present form would. Even if my amendment is accepted it would still be open to the Government to appoint an actuary and to attach importance in making the appointment to the fact that a person is an actuary. The appointment of the Superintendent of Insurance will be made, I imagine, through the Public Service Commission, or at least it should be. (*An Honourable Member*: "It is not the practice of the Government now.") I know, Sir, that when we have got to import foreigners from abroad the services of the Public Service Commission are dispensed with, but I hope that in making this particular appointment the Government of India will take the Public Service Commission into their confidence. Now, Sir, in advertising the post, even if my amendment is carried, it would be still possible for Government to emphasise that preference

would be given to those who are qualified actuaries. Then, if that is so, why fetter your discretion, why limit your choice, why not trust yourself? It may be said that an actuary can alone do the work that would be required of a Superintendent of Insurance. Let us look at the duties he will have to perform. The duties of the Superintendent of Insurance can be gathered from a perusal of clause 3(1) and several other clauses. First of all under clause 3 (1) his duty is to issue certificates of registration. Under this clause he can either register or refuse to register an insurance company. Then, what has to be contained in the application is laid down in sub-section (2). So far as this qualification is concerned, I would say that the work is one which can be done by any one who is not an actuary. It is not necessary for doing this work that the person concerned must be an actuary. Under this clause the Superintendent has the power of refusing to register concerns if Indians are not permitted to do insurance business or can only do it under certain conditions in the country of the concern which desires registration. Then we come to clause 5. Here again he has got to see that the requirements as to capital are complied with. Then we have the clause under which he has to see that a new company does not assume a name under which another insurer is carrying on business and thus defraud the public. Now I would say that the duty of seeing that an insurer is not allowed to carry on business under the name of another insurance company and the duty of refusing to register a foreign concern are in the nature of *quasi-judicial* duties and these duties do not require an actuary.

Then, Sir, there are certain executive or administrative duties which have been given to the Superintendent. He has to see that requirements as to deposits, separation of accounts and funds, accounts and balance sheets and audits, are observed. These are duties of an administrative character. Therefore we find that firstly, the Superintendent has *quasi-judicial* duties; secondly, the Superintendent has administrative duties. Then, Sir, we find that he has certain executive duties. He has to look into returns which insurers have to submit to him. He has to see that he gets an abstract of general meetings and the abstract of general meetings are to be submitted to him. He has to keep in custody certain certified copies of certain papers and he has power under section 35 to order inspection. Then under section 42 he has to license agents and he can disqualify them if they become disqualified. Under section 52(1) he can apply to a court to wind up the concern in certain circumstances. Similarly he has got certain powers under section 64 and under section 70. Under section 70 he has powers in regard to the regulation of provident societies. What I want to emphasise is that all these powers are either of a *quasi-judicial* character or of an administrative character or of an executive character. These are powers which do not require actuarial knowledge. It may be said that he has some actuarial duties also cast upon him and that he has some actuarial duties cast upon him will be evident from certain sections, section 22 and section 15. Now, Sir, I shall assume that he has certain actuarial duties also cast upon him. The Superintendent of Insurance will surely have assistants. Why is it not possible for him to get an actuarial assistant, to have an actuary as his assistant? Sir, the argument is that because he has some actuarial duties he must be an actuary. Now, Sir, let us just try and understand the implications of this argument. In the Finance Department we have as the head of the Finance Department a Secretary who is an Indian Civil Servant, who

[Mr. P. N. Saprú.]

has not had his training as a financier, who does not come from the business world, but we know that he does his work extremely well. In the Commerce Department we have as the head an Indian Civil Servant of experience and he is not a man drawn from the commercial classes; he is not a man who has had actual experience of the business world. We know that he does his duties extremely well. Take, for example, Sir, the Auditor General of India. Now the Auditor General of India has to audit the accounts of a whole Continent and yet the Auditor General is not a qualified auditor. The Auditor General is a Civilian, an Indian Civil Servant of several years' experience. He starts his life as a Joint Magistrate; he has had district experience; sometimes he is a man who has held some judicial appointments also. He is a man generally of varied experience. Then, do you require your Auditor General to be an auditor? Take our High Court Judges. We do not require all our High Court Judges to be barristers or advocates or pleaders. We have Civilians as High Court Judges and our Civilian Judges have done very well. Some of them have been very distinguished Judges of the High Court. Even in the case of hospitals—I sometimes read these advertisements—I find that when you are advertising for a Superintendent of a Hospital you do not say that the Superintendent of the Hospital must be a medical man. If the Superintendent of the Hospital happens to be a medical man, that is an additional qualification, but the Superintendship of Hospitals is open to non-medical men also. Therefore, Sir, granted that the Superintendent of Insurance has some actuarial duties, why is it necessary that he should be an actuary? Why is it necessary for the Superintendent of Insurance to be an actuary? Why can not you treat him on the same footing as you treat your Finance Secretary or Commerce Secretary or Auditor General or as you treat your Controller of the Currency or the Governor of the Reserve Bank? After all, in Law Courts Judges have to arrive at certain conclusions in regard to various matters. They may have to arrive at certain conclusions in regard to actuarial matters. Is it suggested that if, for example, our very good friend Mr. Williams were a Judge of the High Court and there was a case before him which involved some actuarial matter he would not be able to give a proper judgment? My whole point is that the work of a Superintendent of Insurance is of a *quasi*-judicial character, my whole point is that the work of a Superintendent of Insurance is of an administrative character, and my whole point is that the work of a Superintendent of Insurance is of an executive character; and therefore it would be possible for a man who is not an actuary to do the kind of work which he is required to do with efficiency and credit to himself.

Sir, I remain unconvinced that it is necessary for us to prescribe a statutory qualification. The principal duties, as I have attempted to show, of a Superintendent of Insurance are not actuarial; the actuarial duties are only of an incidental, secondary character; they are not the principal duties: the principal duties are administrative, executive and *quasi*-judicial.

THE HONOURABLE THE PRESIDENT: The Honourable Member has repeated this statement several times.

THE HONOURABLE MR. P. N. SAPRU: You want therefore an administrator for the job. May I just give an additional reason why we want this qualification to be removed? If the clause remains as it is it will virtually make it impossible for any Indian to be appointed. Sir, I should like to be perfectly frank about this matter. There are only six Indians with actuarial qualifications. Only one of them is a man who has had 12 years' experience as an actuary. The other five are gentlemen who have been in the actuarial line for three or four years and they would be perhaps considered too junior for the position of a Superintendent of Insurance. Now, Sir, if a statutory qualification like that is laid down, the result would be that we shall have another temporary sojourner imported into this country on an extravagant salary. Sir, our experience in recent months has been rather bitter. We have seen a gentleman who was getting £400 a year in England imported on a fat salary of Rs. 2,500 a month, and Sir, he has been appointed as Adviser to the Income-tax Department. He is going to advise the Department without knowing anything of the Indian system of account keeping. If you were to place a *baikatha* before him he would not be able to make anything out of the accounts in that *baikatha*. That is his great qualification, his supreme ignorance of India, his colossal ignorance of Indian commercial practices. Therefore, Sir, our fear is that, if this statutory qualification is allowed to remain, the post would go to an European. And we are anxious, Sir, that the first Superintendent of Insurance should be a man who will enjoy the confidence of the Indian commercial community. He should be a man who can be trusted to approach the difficult work of administering this Act in a sympathetic spirit. Sir, an Indian would inspire greater confidence among Indian insurance companies, he would be more easily accessible, he would be able to enter into the difficulties of Indian companies, he would be able to appreciate the difficulties of Indian companies better. Therefore, Sir, it is necessary to insist that the first Superintendent of Insurance should be an Indian. If the Honourable the Law Member will give us a reassuring statement on this matter, Sir, it may not be necessary for us to press the amendment to a division. But if we cannot get a reassuring statement on the matter, then it will be our duty to press this amendment to a division. Sir, I have given the reasons why I think that the work of a Superintendent of Insurance can be done by a person who is not an actuary. It is not necessary for me to repeat those arguments again. I would say, Sir, that we on this side of the House remain unconvinced that a case has been made out for the statutory qualification which has been laid down in sub-clause (12) of section 2.

Sir, with these words, I move the amendment.

(The Honourable Rai Bahadur Lala Ram Saran Das rose in his place.)

THE HONOURABLE THE PRESIDENT: Do you not think that the Honourable Mr. Sapru has thoroughly exhausted the subject?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: No, Sir, the subject is so important that most of us are bound to speak on it, even though we may repeat the arguments advanced by Mr. Sapru, because we

[Pandit Hirday Nath Kunzru.]

would like to express the depth of our feeling on the subject and our resentment at a provision being retained which will practically prevent Indians from being appointed.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to support the Motion. As the Honourable the President has himself said that the Honourable Mr. Sapru has dealt with this question exhaustively so I will only deal with it briefly and strengthen his points by my observations. Sir, what do we find in the composition of the Government of India itself? Most of our Honourable Ministers have technical people as their assistants. Take the case of the Honourable the Commerce Member. Take the case of the Honourable the Industries Member. Sir, even where the Defence side is concerned, His Excellency the Commander-in-Chief is a technical adviser to His Excellency the Viceroy. Similar, Sir, is the case in England. Generally speaking, technical people are not very sound administrators. Of course, we have honourable exceptions. But generally, except in the case of law, other technicians have not been generally found to be successful administrators. Therefore, Sir, an Indian should be appointed as an Insurance Superintendent and let him have one or more actuaries to assist him. Sir, we all feel, and that feeling is shared by the public at large, that since the last few years the policy of Government, as far as Indianization is concerned, stands changed. We have seen that even those officers who were in the first case selected to fill certain high administrative posts in the Centre were later on not promoted to those posts and were superseded by those who were junior to them, owing to colour complex.

Sir, if I may mention that the Indian actuaries whom we now have in India, Mr. Vaidyanathan, as far as my information goes, is not likely to accept this appointment, if offered. The other three Indians who are senior enough are so busy with their own actuarial work that they are not likely to accept this appointment. That leaves, Sir, only a few Indian actuaries who are wanting in experience and whose names the Government of India are not likely to consider. Therefore, Sir, our fear is that the Government of India for these reasons may very likely import another man from abroad on a fat salary which India cannot afford. Therefore, Sir, we on this side feel that everyone of us ought to give expression to his feeling that it is absolutely necessary that when you can get capable Indian administrators Government should not import or appoint a non-Indian to this post. We are giving expression to our feelings so that the Government may not always ignore our views and move in an autocratic manner.

The Council then adjourned till Eleven of the Clock on Tuesday, the 23rd November, 1937.