

Wednesday, 24th November, 1937

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COUNCIL OF STATE DEBATES

VOLUME II, 1937

(13th September to 25th November, 1937)

SECOND SESSION
OF THE
FOURTH COUNCIL OF STATE, 1937



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COUNCIL OF STATE.

Wednesday, 24th 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.

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE MR. A. G. CLOW (Labour Secretary): Sir, I lay on the table a statement containing the information promised in reply to questions Nos. 191 asked by the Honourable Mr. G. S. Motilal and 195 asked by the Honourable Sir David Devadoss on the 28th September, 1937.

SALE OF CERTAIN PROPERTIES BY THE BOMBAY PORT TRUST.

No. 191. (a) No. The facts are that a temporary building consisting of two blocks of 24 rooms each was constructed in 1920-21 at the Ballard Pier for use as a hostel by ocean-going passengers at a total cost of Rs. 1,91,567. It was originally anticipated that the hostel would only be required for three years, after which it would be demolished. The demolition value of the materials was then estimated at Rs. 32,400. The east wing was demolished in 1926 and Rs. 3,665 nett was realized. The west wing was demolished in 1936 and Rs. 3,010 was realized, after paying for the cost of demolition. The cook house, which was included in the total cost, is still in use for the restaurant at Ballard Pier Station. The revenue earned from this hostel during 1921—1935 amounted to Rs. 1,80,081 and the cost of maintenance to Rs. 35,075. The total *nett* receipts, including receipts from sale of materials, have so far amounted to Rs. 1,51,681.

(b) The rates for the various building materials were extremely high, when the hostel was built, the price of much of the materials being more than double the prices of today. As already explained, the depreciation was not great as the Honourable Member suggests, and in view of the temporary nature of the building, was not unexpected.

(c) The Bombay Port Trust Engineering Department.

(d) The Tata Construction Co., Ltd.

(e) No.

(f) The proposals for the demolition of the building were approved by the Board of Trustees. The Resolution in the case of the demolition of the east wing read "Sanctioned"; and in the case of the remaining wing of the building "the Committee's recommendation is sanctioned".

(g) The Bombay Port Trust purchased from the Bombay Government two plots of land at Carmichael Road in 1920—one measuring 5,959 square yards for the Chairman's bungalow and the other measuring 3,637 square yards for the Chief Engineer's bungalow.

(h) The Chairman's bungalow was built on the larger plot; the Chief Engineer's bungalow was not built because, in accordance with the Trustees' policy of restricting capital expenditure to urgent and necessary works, funds were not made available.

(i) The Port Trust has leased the smaller plot recently to the Reserve Bank of India for the construction of a bungalow for their Governor.

(j) The Port Trust paid Rs. 1,65,693 to the Bombay Government for the above two plots. On this basis the smaller plot cost approximately Rs. 62,800. As already stated the plot has not been sold to the Reserve Bank.

(k) Does not arise.

PAYMENT OF WATER-TAX, ETC., IN RESPECT OF THE SOLAR OBSERVATORY BUILDINGS,
KODAIKANAL.

195. The quarters of the Director and the Assistant Director, Kodaikanal Observatory, are exempt from water and drainage tax but a sum of Rs. 4-8-0 per annum is paid as water and drainage tax on that portion of the Director's quarters in which the library is housed. Water and drainage tax, paid in respect of quarters for the staff at Kodaikanal, amounts to Rs. 43 annually.

INSURANCE BILL—*contd.*

THE HONOURABLE THE PRESIDENT: We shall now proceed with the further consideration of the Insurance Bill. May I ask the Honourable the Law Member whether he proposes to take up at this stage the postponed three clauses 86, 93 and 101 or wait till we have finished with the Bill?

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member): Sir, we are quite ready to go on with the postponed clauses 86, 93 and 101.

Clause 86.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muhamadan): You will remember, Sir, that the Law Member asked you yesterday to hold over the consideration of clause 86. Since then I had a consultation with him, and I would like to introduce a few words in my amendment* so as to remove any objection there may be to the form in which it is now worded. I want these words to be introduced:

"In paragraph (3) after the word 'may' in the first line, add the following words: 'subject to any rules made by the Central Government.'

"In paragraph (4) after the word 'rules' in the first line, add the following words: 'not inconsistent with any rules made by the Central Government.'

"In paragraph (4) omit the words 'and regulations' in the first line and 'or regulations' in the third line."

THE HONOURABLE SIR NRIPENDRA SIRCAR: I accept the amendment.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 86, as amended, stand part of the Bill."

The Motion was adopted.

Clause 86, as amended, was added to the Bill.

Clause 93.

THE HONOURABLE MR. G. S. MOTILAL (Bombay: Non-Muhamadan): Sir, I move:

"That to clause 93 the following sub-clause be added, namely:

'If default is made in complying with the provisions of sections 35 and 36 by any person who for the purposes of insurance business employs an insurance agent licensed under section 37, he shall be punishable with fine which may extend to rupees five hundred.'

*"That to clause 86 the following sub-clauses be added, namely:

(3) The Provincial Government may make rules and regulations to govern such ties of the Province to register Co-operative Societies for the insurance of cattle or crops or both under the provisions of the Co-operative Societies Act in force in the Province.

(4) The Provincial Government may make rules and regulations to govern such Societies and the provisions of this Act in so far as they are inconsistent with those rules or regulations shall not apply to such Societies'."

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose this amendment because under the draft which I have now submitted on clause 96 all these people, whom my Honourable friend Mr. Motilal wants to include, have been roped in. The only difference is, that he wants the amount of the fine to be Rs. 500 whereas in our draft it is the old amount of Rs. 100.

Sir, I oppose this amendment.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I withdraw my amendment in view of what the Law Member has said.

The amendment was, by leave, withdrawn.

THE HONOURABLE THE PRESIDENT: The Question is:
"That clause 93 stand part of the Bill."

The Motion was adopted.

Clause 93 was added to the Bill.

Clause 101.

THE HONOURABLE MR. J. BARTLEY (Government of India: Nominated Official): Sir, I move:

"That in sub-clause (2) (c) of clause 101 after the words 'including the' the words 'receipt of' be inserted; and after the words 'withdrawal of' the word 'and' be inserted."

Sir, the second part of this amendment is purely formal. The first part has the object of enabling the rules to be made for that stage regarding deposits which is prior to the actual lodging of deposits. As the rule-making power is at present worded, it is not quite clear that a power to make rules as to the actual deposit will be conferred because it says "including the custody of securities lodged as such deposits". This is in order to make it clear that rules may be made in relation to the actual process of lodging of deposits.

Question put and amendment adopted.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I move:

"That for the proviso to clause 101 (2) the following be substituted, namely:—

'Provided that every rule made under this section shall be laid before both Chambers of the Central Legislature as soon as may be after it is made; and if within one month from the later date on which the rule has so been laid both Chambers agree in making any modification in the rule or both Chambers agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or shall be of no effect, as the case may be.'

Sir, if I may draw the attention of the House to the language of clause 101 (proviso), the changes contemplated are easily understood and which I shall explain, although I touched upon it in my previous speech. The proviso now stands as follows:

"Provided that no such rule or rules shall have the force of law unless the same are previously laid on the table of both the Houses of the Central Legislature for a period of a month for modification in such manner as they may think fit".

Sir, the principle which was adopted in the Assembly and which we have no reason nor have we any intention of departing from is that both the Houses, if they agree they can change the rules. The words about the rules not being made at all are only for the purpose of amplification.

[Sir Nripendra Sircar.]

I should like to explain to the House the change in substance and why we want this slight change and why we should agree that the two Houses should have the power not only to modify the rules, but of saying that any or all these rules should not be framed at all. We want this to meet two emergencies, namely, in the initial stage when the Act comes into operation, let us imagine that the Act comes into force on the hypothetical day the 1st of June, 1938. The rules can only be framed under the power given by this Act. Therefore at that point of time, namely, before the 1st day of June, 1938, there would be no rules whatsoever. If we keep our rules ready, we can arrange by keeping the rules ready that they will come into operation simultaneously with the Act. That we can manage. But then the Act requires that the two Houses must be sitting and the rules must be laid on the table of the House for a month and so on. It is quite possible that after this Act comes into force, there may not be any House sitting for months with the result that there would be no rules in operation.

The second contingency which we want to meet is this. I am informed by people who are familiar with the administrative departments, that sometimes we have got to change the rules rather promptly because the rules require modification as a result of experience of the working of the rules. As an instance if some rules in connection with the Reserve Bank in the matter of deposits were found unsatisfactory they may have to be changed at once. Therefore I submit in this instance, there should not be any delay by reason of the House not sitting. I am not troubling the House with the change in words. The change in substance is that if the amendment proposed by me is accepted by the House, it will amount to this. We make our rules which come into operation at once. But nevertheless although the rules come into operation by reason of the publication in the Gazette, the Houses do not lose their powers which they have under the proviso as it was passed by the Legislative Assembly. I can assure the House that there is no intention to take away that power to which we have agreed in the other place. I have explained to the House that this modification is necessary, for the reasons I have tried to explain.

Sir, I move.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Sir, I rise, not so much to oppose this Motion, as to get elucidation on some points which I do not fully follow. The first point which I wish to understand is this: what is the difficulty in framing the rules before the Act comes into operation.

THE HONOURABLE SIR NRIPENDRA SIRCAR: No difficulty.

THE HONOURABLE MR. HOSSAIN IMAM: There are two things. An Act of the Legislature, as soon as it receives the assent of the Governor General becomes law. The date from which it comes into operation means the date from which it will have the effect on the people governed by it. The wording of clause 101 does not make it incumbent on the Government to postpone the rule-making power till the time the Act comes into operation.

THE HONOURABLE SIR NRIPENDRA SIRCAR: My Honourable friend has misunderstood me. That is exactly the point which I raised. There is no difficulty whatsoever. We can prepare the rules and make them ready. Supposing the Act comes into operation on 1st June. We can simultaneously on the 1st June publish the rules. That is not the difficulty which I am anticipating. My Honourable friend wants to know what is the other difficulty. The difficulty is this. Supposing I publish the rules on 1st June. They cannot come into operation under the proviso as it now stands unless the rules have been placed on the table of both the Houses for a month, and so on. It is quite possible that there may be no House sitting for two or three months. That is my difficulty in making the rules in anticipation.

THE HONOURABLE MR. HOSSAIN IMAM: The second point on which I want elucidation is this. What would be the force of the wording in this amendment "or both Chambers agree that the rule should not be made". Is it required that unless and until both the Houses come to the same decision, the decision of the Legislature will remain inoperative.

THE HONOURABLE SIR NRIPENDRA SIRCAR: May I give information on that point? Certainly. But that is not changed. If you turn to the language of the proviso to clause 101 it says:

".....for modification in such manner as they may think fit".

Therefore the modification must be by both the Houses. There we have made no change at all. The Houses can say whether they agree to these rules or not. If they do not want these rules at all they will be deleted, if they want modification the rules will be modified.

THE HONOURABLE MR. HOSSAIN IMAM: But what would happen in case of difference between the two Houses?

THE HONOURABLE THE PRESIDENT: Both Chambers must agree.

THE HONOURABLE MR. HOSSAIN IMAM: What happens if one House wants to change the rules and the other House does not want the change?

THE HONOURABLE THE PRESIDENT: That happens every day now.

THE HONOURABLE MR. HOSSAIN IMAM: I therefore submit that what is given with one hand is sought to be taken away with the other hand. If there is disagreement between the two Houses, the question should be decided by a joint session. I want this matter to be explained further by the Government.

THE HONOURABLE THE PRESIDENT: I think the Honourable the Law Member has satisfactorily explained the position.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 101, as amended, stand part of the Bill."

The Motion was adopted.

Clause 101, as amended, was added to the Bill.

Clause 103.

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

"That in clause 103 after the word 'all' the word 'standard' be inserted."

Sir, this is merely to indicate that the forms of policy contracts which are to be deposited are the standard forms and not particular forms issued in respect of individual insurances which may have special terms.

Question put and amendment adopted.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to move:

"That after clause 103 the following clause be inserted, namely:

"The market value on the day of deposit of securities deposited in pursuance of any of the provisions of this Act with the Reserve Bank of India shall be determined by the Reserve Bank of India whose decision shall be final."

Determination of market value of securities deposited under this Act.

Sir, this is a small point but an obvious lacuna was left in our Bill. Questions very often arise as to what was the market value prevailing, whether it was, say, Rs. 112-4-0 or Rs. 112-8-0 or Rs. 112-6-0, and so on. And if there is a dispute of that kind we do not want the matter to go into court for determination of the market value, etc. We are giving some authority, and we think it is a suitable authority, for deciding the matter of the exact market value.

Sir, I move.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 103, as amended, stand part of the Bill."

The Motion was adopted.

Clause 103, as amended, was added to the Bill.

Clauses 104, 105 and 106 were added to the Bill.

THE HONOURABLE THE PRESIDENT: As regards the Schedules, I think it will be more convenient to take them up after the whole Bill is disposed of. We will therefore now take up the supplementary amendments of which notices have been given. Several of these have been put in since yesterday evening and in one sense they are out of order as they were not put in before 11 A.M. on the 17th instant by which time Honourable Members were asked to put in all their amendments. But some of them are very important and as this is an important and complicated Bill and greater study of the Bill enables Members to know where the defects lie, I have decided, unless the Honourable the Law Member or any other Honourable Member objects, to allow Members to move these amendments.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I have no objection.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, what will happen to those other amendments of which we gave notice before these amendments?

THE HONOURABLE THE PRESIDENT: Those also will come; they are included in the supplementary lists.

Clause 35.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to move:

"That for clause 35 (1) the following be substituted, namely:

'No person shall, after the expiry of six months from the commencement of this Act, pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent licensed under section 42 or a person acting on behalf of an insurer who for the purposes of insurance business employs licensed insurance agents.'

Sir, I think I must explain to the House what changes are involved by this amendment and also indicate to the House what amendments notified by Honourable Members from the Opposition have been embodied either wholly or partly in my amendment. The first matter, and that is the most important of all, is that in section 35, if Honourable Members will kindly turn to it, the opening words are:

"No insurer or any person who for the purposes of insurance business employs an agent", etc.

Sir, these have been struck out in my amendment and I have used the words "No person" which makes the scope of the section wider by closing possible gaps. The object is, as I explained to the House, that there may be different grades in the hierarchy beginning from the Calcutta representative, to the chief agent, the district agent, and so on; and unless this modification is accepted and unless the widest words "No person" are put in as I propose, there may be some escapes which I am sure the House will not advocate. That is the first and most substantial and real change in the section.

Then, Sir, the next thing is this. In the last line but one Honourable Members will find the words put in have been "or a person acting on behalf of an insurer" and these have been taken from the language of No. 7 on list No. 2 which stands in the name of the Honourable Mr. Parker and the Honourable Mr. Reid Kay. So that has been embodied here. The last words have not been changed—"or any person who for the purposes of insurance business employes such agent". Therefore, to summarize, the two changes made are, (1) we are widening the scope of the section by using the words "No person" instead of the two classes which are specifically mentioned in the clause as passed by the Assembly, and (2) we have accepted amendment No. 7 in the Consolidated List, Part II, and put in the words "or a person acting on behalf of an insurer". In one word, Sir, the object of this amendment is not to limit the scope of the section as passed but to attempt to increase it.

Sir, I move.

Question put and amendment adopted.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: On a point of information, Sir. May I know what will happen to my amendments Nos. 13, 15, 16, 17 and 18?

THE HONOURABLE SIR NRIPENDRA SIRCAR: May I answer my Honourable friend? Whether by the time these amendments are reached,

[Sir Nripendra Sircar.]

they are past all hopes and have been shut out by other amendments can only be decided when the amendments are reached. It is a matter entirely for the Chair. I do not think the Honourable Member will expect the Chair to give hypothetical rulings. If any Member feels any doubt he should avoid risks by moving now. We do not want any further change in 35 (1). We will not move any other amendments in respect of 35 (1). What the House has accepted is "That for clause 35 (1) the following be substituted". The rulings in the other House are—I am not suggesting that they are binding on the Chair in this House—that if a clause is substituted, then the whole of the original clause is gone. We then get a fresh clause and we cannot tinker with the old clause later with modifications. So, I do not propose—and indeed I cannot move—any of my amendments with reference to clause 35 (1) which refer to the old clause.

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

"That to sub-clause (1) of clause 35 the following proviso be added, namely:

'Provided, however, that any person who for the purposes of life insurance business employs insurance agents licensed under section 37 shall not solicit or procure insurance business and that no portion of commission or remuneration payable to a licensed agent under sub-section (2) of section 35 shall be paid to such person.'

Sir, this amendment makes it clear that a person who employs a licensed agent shall not receive any commission or remuneration.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. I do not want to take any technical point, but I do think this is inconsistent with the amendment which has been passed by the House. But, irrespective of that question, Sir, on the merits I oppose this amendment.

Question put and amendment negatived.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: I want to make one submission, Sir. Before we had finished sub-clause (1), we jumped on to sub-clause (2), and that was out of order. The amendment of my learned friend, the Honourable the Law Member, was with regard to sub-clause (2) of clause 35. We had other amendments put in prior to his and we want that those amendments should be taken up first before his amendment is taken up.

THE HONOURABLE SIR NRIPENDRA SIRCAR: If I understood my Honourable friend correctly, he wants to know whether other amendments to clause 35 (2) should not be taken up before mine? We are talking in anticipation of clause 35 (2). We have not yet finished with clause 35 (1). As regards clause 35 (2), the order in which the amendments should be taken up is a matter entirely in the discretion of the Chair, but I would like to suggest to the Chair that as my amendment is the most comprehensive amendment and as it incorporates many of the amendments suggested by the Opposition, the most convenient course is, for me to be allowed to move my amendment to clause 35 (2) and then to wait and see whether any of the other amendments can be moved or not.

THE HONOURABLE THE PRESIDENT: I entirely agree with the Honourable the Law Member that he should move his amendment to clause 35 (2).

(The Honourable Mr. Sitakanta Mahapatra rose.)

THE HONOURABLE THE PRESIDENT: Do you wish to move your amendment?

*THE HONOURABLE MR. SITAKANTA MAHAPATRA (Orissa: Non-Muhammadan): Yes, Sir. I move:

"That to sub-clause (1) of clause 35 the following provisos be added, namely:

'Provided that no insurer shall in respect of the business of life insurance carried on by him appoint more than fifteen persons in India who for the purposes of insurance business employ agents licensed under section 37 and the remuneration in any form of such person shall not exceed 20 per cent. of the first year's premium and 2½ per cent. of the renewal premium over and above the commission payable to agents licensed under section 37; but, that insurers, in respect of life insurance business only of ten years' standing will be excluded from the operations of this proviso:

'Provided further that an insurer engaged in the business of life insurance before the 1st of January, 1926, shall dispense with the services of all persons in the payment of the insurer in the shape of commissions except insurance agents licensed under section 37 within two years after the commencement of this Act and may replace them with persons paid salaries only and not commission; an insurer engaged in the business of life insurance between the 1st of January, 1926 and the 31st of December, 1930, shall act as directed above within three years after the commencement of this Act: an insurer engaged in the business of life insurance between the 1st of January, 1931 and the commencement of this Act shall act as directed above within four years after the commencement of this Act and an insurer engaged in the business of life insurance after the commencement of this Act shall act as directed above within five years of his or its such engagement'."

Sir, so far as the first proviso is concerned I submit that my amendment seeks to restrict the number of persons who employ licensed agents on behalf of an insurer but whose own remuneration is unlimited. The remuneration of an ordinary agent has been limited. Thus agents do not like it. Further, many insurers do not approve of this limitation. But if the number of those special unlicensed agents, who are also insurance agents with the additional qualification of having the power to appoint licensed agents but whose remuneration is not limited is not restricted for each insurer the purpose of the clause limiting the remuneration of licensed agents may be defeated. To use a much maligned mixed metaphor of Sir Cowasji Jehangir, the insurer who desires to avoid the limitation of payments to licensed agents may drive a coach and four through the clause. If he has got 300 agents working under him, he may convert every third agent into an employer of agents, employing two licensed agents, pay him unlimited remuneration and defeat the purpose of the clause. But if a restriction is imposed on the number of such special agents for one insurer such a fraud will not be possible. Further, my amendment seems to exclude young insurers of under ten years from the operation of this restriction. If there be no such restriction a big and major insurer may compete

*Not corrected by the Honourable Member.

[Mr. Sitakanta Mahapatra.]

with an under-age small insurer on the same terms with practically no advantage to the latter. As for limiting the remuneration of persons who employ licensed agents, the only reason that the Honourable the Law Member gave for such limitation, if I heard him correctly was that such a limitation would adversely affect young companies. But I have sought to exclude such young companies from the operation of this limitation. After this objection is met there could hardly be any other objection for such limitation and there are many things in its favour. Unless remuneration given to such special agents is limited, the limitation imposed on licensed agents and also the provision against rebate may not be quite effective and expenses of an insurer may not appreciably be brought down. I would invite the most sympathetic consideration of the Honourable the Law Member to my amendment.

I want to know, Sir, if I may speak later on the second proviso, the latter part of my amendment?

THE HONOURABLE THE PRESIDENT: No. This is one amendment. You should speak now.

THE HONOURABLE MR. SITAKANTA MAHAPATRA: The position of the insurance middleman, whether he goes by the name of chief agent or district agent or divisional or special agent or employer of agents, as the Honourable the Law Member has honourably named him, so far as I have been able to understand, is this. He gets a certain amount of money as remuneration from the insurer calculated on the basis of the business given to the latter, which business is procured by agents employed by him. Such an arrangement obviously means that the less he can contrive to give to the ordinary agents working under him the more he can keep for himself. That is, the more he can cheat the agents the more he can gain. This he always tries to do and naturally enough with a considerable amount of success. Some one may say that when it is his interest to secure more and more business he cannot afford to deceive field workers and thus dissatisfy them. There is only some truth in the assertion. He is of course careful not to dissatisfy a good worker, but he cuts the throats of average workers who can easily be replaced as mercilessly as he can and never suffers for that. There is so much educated unemployment in the country that every educated young man when he is employed in no other way is surely an insurance agent. I know many Government servants working as agents indirectly because their wives are agents. There is no dearth of insurance agents and if an insurance agent is dissatisfied over bad payments and leaves, he can be replaced by ten others. Educated men in our country do not feel the same sort of common sympathy for one another as uneducated labourers and they are supremely happy when they can replace each other. So these sharks of insurance middlemen do always cheat poor and unprotected field workers of their dues, legal or moral, and gain more by it. But where there is a representative of the insurer who is not paid by commission but is a salaried man, the field workers under him work more happily. He does not try to deprive workers under him of their dues as he does not stand to gain in any way thereby.

Sir, there are about 50,000 insurance field workers in India and there is scope here for another 50,000 to be usefully employed. Here in this

Bill there was a great opportunity for the authorities to try for a partial solution of the unemployment problem in India, particularly when the administrative head of the Government of India is so keenly solicitous for solving the great problem. But that opportunity has practically been thrown away. Both the Government and popular parties in another place vied with one another as to how to protect the interests of policy-holders. The interests of policy-holders have been thoroughly protected and in this race it is generally admitted that the Honourable the Law Member won the championship cup! Then there was another race as to how to protect the interests of younger companies. Success begets success and the Honourable the Law Member won this race too! It was perhaps at the altar of interests of young companies that the interests of field workers were sacrificed. Then there was another hurdle race as to how to hit big business. The Honourable the Law Member had to negotiate with many obstacles there including leaders of popular parties and business magnates and he reached the final post, though wounded! It is a pity that during all these worries he had little time to think of 50,000 poor helpless starving field workers and the 50,000 more, who are expected to join the field during the next 15 or 20 years. In a few days, as we all know, 1,100 highly educated Bengali detenus will be released and I have no doubt that most of them will become insurance agents: otherwise how will they fill their stomachs? The insurance middleman will reap a good harvest through them because much sympathy for themselves will they be able to create and will do good business for some time. But is there any guarantee in this Bill that the middleman will pay them, all their dues? We may consider that otherwise they could be sued, but is he to go through the turmoil of a law court? A lawyer may be happy over it, but a layman like myself can only think of a lawsuit with horror.

Sir, I know the Honourable the Law Member can quote chapter and verse to show what he has done for policy-holders and for young companies and how he has crippled big business. But what can he say to what he has done to protect the interests of field workers in order that the expense ratio on insurance may go down? The maximum commission for field workers has been fixed and this again he has brought down, both life and general. He is prepared for the gain to insurers who are rich at the cost of field workers, but not at the cost of middlemen. There are other instances in this Bill where attempts have been made to worsen the lot of field workers. I was surprised to think how the man who so mercilessly struck managing agents would have such tender feelings for the chief agents who are worse. I think as a big lawyer of a big High Court dealing with big companies he was well acquainted with what managing agents do, but he did not know what smaller serpents of insurance did with field workers working in rural or semi-rural areas. They are tigers for field workers working in the mofussil and mofussil towns and the Honourable the Law Member did not know their activities as he had no opportunity of handling cases of such a small nature. A man so long as he is a man cannot be expected to know everything except perhaps members of the I.C.S.! A large number of my friends and relations work as field workers in Orissa which is a rural province and I have first-hand knowledge of their circumstances. Where they work under branch managers or salaried men they are well paid and happy but where they work under chief agents or some such men they are ill-paid and unhappy. Sir, a friend of mine was working under a chief agent. He was attacked with phthisis; neither could he

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draw his back dues for about a year, nor could he give any work for the period.

THE HONOURABLE THE PRESIDENT: Is all this relevant?

THE HONOURABLE MR. SITAKANTA MAHAPATRA: Then he died; his widow requested me to write to the chief agent, a company in Calcutta, to pay her the back dues of the deceased man, but they replied that as he did not give any work during the year past his dues had been forfeited. I do not know if they were legally bound to pay her, but I think they were morally bound.

Sir, these middlemen work havoc among the field workers in the mofussil and they should be replaced by salaried men who are not paid by commission. There is a wrong notion in the minds of many men that younger companies will be hit if the chief agency system goes. This is not the case. I have consulted representatives of many young companies and they are unanimously of opinion that if the chief agency system remains by law they cannot replace it by branch offices and compete successfully with big companies. But if the system is abolished by law altogether, they can easily replace it by branches and compete with big business. The thing is this. A big company can open a branch office with much eclat, a highly paid branch manager, a big building, etc., etc. But that is no reason why a small company cannot open a small office with a branch manager on small pay. A big company pays its general manager Rs. 5,000 a month, while a small company pays its general manager Rs. 500 and yet thrives. But lest younger companies should meet with any difficulty during their early stages I have provided for the contingency with great care. It is a pity that discussion on these lines did not take place in the other House. It was perhaps due to clause 35 being discussed towards the end of the discussion when all were tired. I am really surprised that nothing at all was said about this aspect of the question. The question of chief agents was only touched by one or two but not discussed.

Sir, with these words, I commend my amendment to the sympathetic consideration of the Honourable the Law Member.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Before my Honourable friend (the Honourable the Law Member) speaks, may I be allowed to put a question to you, Sir? What will the effect of this amendment be on the amendment to clause 35 of which I have given notice and which you will find in Supplementary List No. 3. I want to know whether my amendment will be barred in case my Honourable friend's amendment is rejected by the House?

THE HONOURABLE THE PRESIDENT: Your amendment is about sub-clause (2), not sub-clause (1).

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir, I have asked that a new sub-clause be inserted after sub-clause (2) I am asking if it will be barred.

THE HONOURABLE THE PRESIDENT: If you insist on it probably I will allow it, but I do not know what weight it will carry.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, my Honourable friend Mr. Mahapatra before resuming his seat informed this House that possibly not much attention was paid to this matter
12 Noon. in the other place because everyone was bored. I can assure my Honourable friend that a whole day in the Assembly or here is not half so boring as listening to his speech for 20 minutes!

Now, Sir, his other complaint was that neither the Government nor the popular parties have thought about the matter sufficiently. Now, let us see, Sir, what fresh light has been thrown on this matter by my Honourable friend who is trying to correct the mistake of so many people. Apart from the general objections which I have already given and I have indicated in my previous speeches, let us examine his scheme. What is the remuneration which is provided? "The remuneration in any form of such person shall not exceed 20 per cent. of the first year's premium". Now, let us take the case of a company which has been started. As its first year's premium it can collect only Rs. 5,000. The next year Rs. 10,000. In ten years the premium is Rs. 50,000 or Rs. 5 lakhs. Very well. But this man is not to get more than 20 per cent. of his first year's income. However much the business may go on extending, he cannot get more than 20 per cent. of the first year's income. If this is the result of the very serious reflection which my Honourable friend has made over this matter, then I can only regret that he has not arrived at any result intelligible to anybody.

THE HONOURABLE MR. SITAKANTA MAHAPATRA: Verbal changes may be made by you.

THE HONOURABLE SIR NRIPENDRA SIRCAR: It is not a question of verbal changes. I think when an Honourable Member brings forward an amendment of this nature and complains that neither the popular parties nor the Government have given it sufficient consideration, he ought to have given the matter a little more thought and not left it to others to make sense out of his amendment.

Sir, another observation which astounded me was—and my Honourable friend will correct me if I am wrong—he said that he has consulted the representatives of young offices and he has been told that they do not want the chief agent to remain. Is that right?

THE HONOURABLE MR. SITAKANTA MAHAPATRA: No, Sir. If the chief agency system remains they will take full advantage of it and they do not want to replace the chief agent by a managing agent. But if that goes by law, they will be happy to replace it.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Well, Sir, I have not got any information as to the possible respective degrees of happiness of these gentlemen! What will make these gentlemen completely happy? The answer is "Nothing". I can assure the Honourable gentleman who has only recently come from Orissa to help us with this Bill that the representatives of these young companies have met me not once, but many times, and I claim to have listened to their written representations.

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to their oral requests, and to their discussions with a patience—I will not say anything about it but it required a lot of patience. (*An Honourable Member*: "With Job's patience?") Then, Sir, my friend's sympathies were with the field workers, which led him to make the remark that nobody had paid any attention to these poor field workers, and we had a lot of talk about the masses and the hosts of the unemployed. He told us that the whole of the unemployment problem and the detenus problem would be solved provided his amendment is accepted. If this amendment goes, the detenu problem will be nowhere near solution. Now, Sir, so far as these young companies are concerned, I am not at all sure of what, according to the Honourable Mr. Mahapatra, they really want. It may be that a particular man who was approached by my Honourable friend said that he wants this, but is that what is wanted by the generality of young companies? About the field workers, the complaint is that nobody has paid any attention to them. The insinuation is that the Congress Party and Government have always favoured the rich. The Honourable Mr. Mahapatra alone has a heart which throbs for the poor! Now, let us see, Sir, what it is he wants us to do for the field workers. What is it that we should devise? That no field worker shall get less than Rs. 500 a month and that every young unemployed man must be employed? Is this the kind of thing he wants to be done by the Bill?

I submit, Sir, that we have paid as much attention to these points as the Honourable Mr. Mahapatra and I speak not only for myself but for all those who took part in bringing and passing this Bill. What more can be done and how is it to be done? We have provided for whatever is reasonably possible and we have looked not only to the interests of the field worker but also to the interests of the company and to that of the policy-holder. It is all very well to say 100 per cent. of the profits should go to the field workers. Every one should try to solve the unemployment problem, but have we got to keep a certain amount for the policy-holders and a certain amount for the companies.

Well, Sir, I do not think I shall take up the time of the House further. I very strongly object to the amendment which has been moved by my Honourable friend Mr. Mahapatra and I can assure him that, whether my opinion is right or wrong, I have at least thought as much about this matter as he himself.

THE HONOURABLE MR. SITAKANTA MAHAPATRA: Sir, I wish to withdraw the amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: No, Sir.

Question put and amendment negatived.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to move:

"That for clause 35 (2) the following be substituted, namely:

'No insurance agent licensed under section 42 shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding, in the case of life insurance business, forty per cent. of the first year's premium payable on any policy or policies effected through him and five per cent. of a renewal premium or in the case of business of any other class fifteen per cent. of the premium:

'Provided that insurers, in respect of life insurance business only, may pay, during the first ten years of their business, to their insurance agents fifty-five per cent. of the first year's premium payable on any policy or policies effected through them, and six per cent. of the renewal premiums'."

If I may be permitted, Sir, to explain to the House the changes which are now attempted to be made by me in moving this amendment, it will be noticed that again the words used are "No insurance agent". The whole object of that is to make the operation of this section wider and to see that it does really shut out the intermediaries whom I have described in my previous speech, who may escape if this clause is not amended by widening its operation by changing the words used into "No insurance agent".

Secondly, the House will notice that there has been a change in the shape of reducing 45 to 40 per cent. That really embodies amendment Nos. 20, 21 and some others which have been notified for bringing about a similar change. Then we have said "first year's premium" in the amendment instead of "initial premium". That again adopts a desirable improvement which was suggested by amendment No. 23, because the initial premium may be only the first quarterly premium and it may not be the first year's premium.

Thirdly, the House will also notice that the maximum permissible for general insurance, namely, marine, fire, accident, and so on, which in the Bill stands at 30 per cent. has been reduced to 15 per cent. This also adopts amendments notified particularly, for instance, No. 25.

These are the three changes, and so far as the proviso is concerned, I do not find any change. Shortly speaking, summarized, it means this: that we are widening the scope of this section by using the words "No insurance agent" in the hope that it will rope in everybody who is intended to be hit by this section, 45 per cent. has been changed to 40 and 30 per cent. has been changed to 15 per cent.

Sir, 1 move.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I have sent in this morning an amendment to this amendment. It is not in the printed list—

THE HONOURABLE THE PRESIDENT: Have all Honourable Members got copies of it?

HONOURABLE MEMBERS: No.

THE HONOURABLE THE PRESIDENT: I will allow the Honourable Member to move this amendment, but I must tell Honourable Members that it is causing much dislocation of the work of the Council, and though I have given every possible latitude to Honourable Members to put their amendments, I am afraid I shall not allow any further amendments to be brought in at this stage, because there must be some limit in my opinion to the time when amendments can be proposed. The Honourable Member can move the amendment of which he says he has given notice.

THE HONOURABLE MR. G. S. MOTILAL: I got this amendment only last night—this is a new amendment of the Government and I could

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send in my amendment only this morning. I have myself not got a copy of my amendment and so I shall read from the rough notes—

THE HONOURABLE THE PRESIDENT: You cannot read the rough notes.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I want to know which one the Honourable Member is moving. Will he kindly read it out?

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

“That for clause 35 (2) the following be substituted, namely :

‘No insurance agent licensed under section 37 shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding, in the case of life insurance business, forty per cent. of the first year’s premium received on any policy or policies effected through him and five per cent. of premiums received for subsequent years or in the case of business of any other class ten per cent. of the premium :

‘Provided that insurers in respect of life insurance business only may pay during the first ten years from the date of the initial commencement of their business, to their insurance agents fifty per cent. of the first year’s premium payable on any policy or policies effected through them and six per cent. of the premiums for the subsequent years.’”

Sir, the difference between these two amendments is this: first of all, it is 40 per cent. on premiums received by the company that the licensed agent will get, and not on the premium payable. Suppose some one has effected an insurance and a policy is issued to him: but if he has not paid any premium, then this licensed agent should not get the commission on that premium but only on such premium as the company has received. The second difference is with regard to the terms used here “renewal premium”. There is no renewal premium. As a matter of fact in these life insurance policies, once a policy is taken out, the premiums which are paid are premiums for subsequent years: therefore I say “on subsequent premiums”. There is no such thing as renewal premium. In the case of other business the amendment as now brought in by the Honourable the Law Member reduces the commission from 30 per cent. to 15 per cent. I had given notice of an amendment proposing to bring it down to 7½ per cent. My present amendment raises it from 7½ to 10 per cent., and reduces the Government proposal from 15 per cent. to 10 per cent. The fourth difference, with regard to the proviso, is that in the original Bill as it came to this House from the Assembly, the commission which the young companies were allowed to pay to, licensed agents was 10 per cent. more than by the old companies: but 45 per cent. in the original clause has been reduced to 40, and so the difference will be 15 per cent. in the case of new companies as a result of the Honourable the Law Member’s amendment. My amendment seeks to fix it at only 10 per cent.

These are the main differences. The difference in language must be obvious to the House. First, instead of paying commission on premium which is payable, the insurer has to pay it on premium which has been received actually. Secondly, this is a verbal alteration; in place of renewal premium, it should be for subsequent years’ premium, but the more important one is with regard to the 15 per cent. I submit it should not be 15 per cent. but it should be only 10 per cent. Under the

insurance tariff, so far as fire and marine insurance is concerned, it is only 7½ per cent. If we want to give the licensed agents a little more, we might raise it to 10 per cent., but it should not exceed 10 per cent. We have discussed this question before, and I do not propose to go into those reasons again. What I say is, it should be a reasonable amount, and he should not be paid a very large amount.

Then again, Sir, in the case of new companies, they were allowed to give 10 per cent. more for life insurance business. The old companies are being allowed to give 40 per cent., and the new companies, according to the amendment of the Honourable the Law Member, can give 55 per cent., while I submit it should be 50 per cent. If we go on allowing new companies to give more commission, the result will be that the agents will work more for the new companies and less for the old companies. Consequently, every five years a new company might spring up and old companies will have to wind up their show. For these reasons, Sir, I place my amendment before the House.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: May I know, Sir, now that you have allowed an amendment to be moved to the amendment of the Honourable Sir Nripendra Sircar, whether we will be in order to move our amendments on the list, not as substantive amendments, but as amendments to the amendment of the Honourable Sir Nripendra Sircar?

THE HONOURABLE THE PRESIDENT: When the question comes up at the proper time, I shall give my opinion. I cannot say what is going to be the result of these two.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I wish to reply to the observations just made by the Honourable Mr. Motilal. I am of course opposing his amendment because it is wholly inconsistent with mine, but I should like the House to know as to what is the position of a man who is in charge of a Bill of this kind in the matter of eliciting either public opinion or the opinion of the Members of the Legislature. After the Bill was passed, I tried to ascertain, when this proposal of reducing 30 per cent. to 15 per cent. was made, public opinion as well as the opinion of the leaders of the various parties. I think my Honourable friend Mr. Motilal belongs to the Congress group? I was given an opinion by Mr. Desai, the Leader of the Opposition. His view was that we need not touch 55 per cent. and 30 per cent. should be reduced to 15 per cent. I find that is the opinion not only of the Congress group, but also of the other parties to whom I sent intimation to give me their opinions, and they all agree. But here I find one Honourable Member gets up and says, "Oh, 15 per cent. is too much, it should be 10 per cent., and all these differences should be made".

Sir, I strongly oppose this amendment.

THE HONOURABLE THE PRESIDENT: Does any other Honourable Member wish to speak?

THE HONOURABLE MR. HOSSAIN IMAM: I think, Sir, amendment No. 19 in the consolidated list is pertinent.

THE HONOURABLE THE PRESIDENT: I cannot say anything now, but when the proper time comes I shall pronounce my opinion.

Question put and substituted amendment negatived.

Question put and original amendment adopted.

THE HONOURABLE MR. HOSSAIN IMAM: Can we now move amendment No. 19 in the consolidated list?

THE HONOURABLE SIR NRIPENDRA SIRCAR: I would like my friend to consider whether he really wants to move it, because as the amendment has been adopted by the House, it reads: "No insurance agent licensed under section 42 shall be paid or contract to be paid", etc. I have not used the words "British India", so that I think the proposed amendment is wholly unnecessary now. Having regard to the original Bill, my friend's amendment was right, but now as I have drafted it, I submit for his consideration if this is wanted at all?

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Then I shall not move it, Sir. •

THE HONOURABLE THE PRESIDENT: If you wish to move the amendment in Supplementary List No. 3, to this clause, I will allow you to do so, Mr. Kunzru.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir, I beg to move:

"That after sub-clause (2) of clause 35 the following sub-clause be inserted, namely :"

Sir, before I formally move this amendment, I should like to explain that the amendment in Supplementary List No. 3 was drafted before the language of clause 35 had been altered by the Honourable the Law Member. In view of the alteration made by him, I have had to change the language of my amendment also. I shall put the amendment in consonance with the clause as it now stands, and I will not read out the amendment as it stands in List No. 3.

THE HONOURABLE THE PRESIDENT: Will you give me a copy of your amendment?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: We had no notice of the change that the Honourable the Law Member was going to make in the language of the clause, we did not get an amended copy until last night, and so I think in all fairness I am entitled to move my amendment now, especially as the substance of it—

THE HONOURABLE THE PRESIDENT: That cannot be done as I have not got proper notice of it. I will take it up after lunch. Meanwhile, you can give me a copy of it, and you should also give a copy to the Honourable the Law Member.

In view of the passing of the Honourable Sir Nripendra Sircar's amendment, does any other Honourable Member wish to move the amendment or amendments he has given notice of?

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: If they are not barred I should like to move Nos. 30, 31, 32 and 33.

THE HONOURABLE THE PRESIDENT: My personal opinion is that they are barred, but I would like to hear what the Honourable the Law Member may have to say.

(After consultation.)

Amendments Nos. 30, 31, 32 and 33 will not be barred.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, what about Nos. 15, 16, 17 and 18?

THE HONOURABLE MR. HOSSAIN IMAM: Sir, are all the previous amendments barred?

THE HONOURABLE THE PRESIDENT: They are all barred unless you convince me to the contrary. I will proceed with the Consolidated List. I will take up from No. 30.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, if I am barred I shall not move it.

THE HONOURABLE THE PRESIDENT: I do not say you are barred, but what word I should use I do not know, except perhaps to say that it is absolutely inconsistent with the amendment that has been passed.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, with regard to some part at least it cannot be. However, I do not propose to move No. 30. It is very difficult to find out what will be consistent and what will not be consistent. I want to move No. 32.

THE HONOURABLE THE PRESIDENT: That is barred. Do you wish to move No. 30 or not?

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: No, Sir, it cannot be moved without the other amendments.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, I move:

“That after sub-clause (2) of clause 35 the following sub-clause be inserted, namely:

“(2A) A person who under authority derived from an insurer who carries on life insurance business only employs insurance agents for the purpose of such business of the insurer, whether designated as Chief Agent, Special Agent, Insurance Broker, or known by any other designation, shall not receive commission on the business personally procured by him, unless he is himself an insurance agent; he shall be entitled only to overriding commission on the business secured through him, which together with the commission paid to an insurance agent appointed by him shall not exceed 65 per cent. of the first year's premium and (I want to add here the words ‘an overriding commission not exceeding’) two per cent. on the renewal premium; provided, however, that during the first ten years of such insurer's business, such (I want to change ‘commission’ here to ‘commissions’) commissions shall not exceed 75 per cent. of first year's premium and 2½ per cent. on the renewal premium.”

THE HONOURABLE SIR NRIPENDRA SIRCAR: I have not taken any technical objection so far and I have no desire to do it. But surely I must object to the addition of these words which make such a lot of difference and am asked to consider that straight off. I think it is

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not fair that these words should be allowed to be added, but let me understand if I have got it right. Does my Honourable friend propose to add after the word "and" the words "an overriding commission not exceeding?"

THE HONOURABLE MR. RAMADAS PANTULU: "Two per cent. on the renewal premium". The figures there are all right. I have not changed them.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I withdraw my objection. Let my Honourable friend move.

THE HONOURABLE MR. RAMADAS PANTULU: The object of this amendment is to fix some limit on the commission to be paid to persons who employ insurance agents for the purposes of the insurer, call him a chief agent, or an organizer, or insurance broker, or a special agent, or by whatever name you please. I felt that unless there was a limitation on the commission to be paid to the middlemen, between the insurer and the insurance agent, many of the benefits conferred by the new Bill on insurance business by way of limitation of expenses would be frustrated. There is really no reason why persons who in ordinary parlance are called chief agents but who elude a definition should be left alone and why their commission should not be limited. This amendment further provides that the chief agent shall not get any commission on business canvassed by him personally, unless he himself takes out a license as an insurance agent. There is no reason why a chief agent should not be permitted to take out a license and canvass business himself, and if he does so, he gets a commission on his own business. In addition to that he gets an overriding commission. The figures I have given work out to 20 per cent. in the case of the first year's premium over the commission to the insurance agent. If the limit to ordinary agents is reduced to 40 per cent. it works out to 25 per cent. The scheme of this amendment is clear from the wording of it. In the case of the chief agents or the organizers I limit the aggregate commission to 65 per cent. of the first year's premium and an overriding commission not exceeding two per cent. on the renewal premium. With regard to new companies I have kept ten per cent. difference between the first year's premium payable to a chief agent by old companies and that payable by the new companies.

Sir, I commend my amendment to the acceptance of the House.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I have dealt with this point at very great length in my original speech. I do not desire to repeat the arguments.

Sir, I oppose the amendment.

Question put and amendment negatived.

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

"That for sub-clause (3) of clause 35 the following be substituted, namely:

'(3) Nothing in this section shall prevent the payment under any contract existing prior to the 27th day of January, 1937, of gratuities or renewal commission to an insurance agent or to his representatives after his decease in respect of insurance business effected through him before the said date.'

Sir, this merely re-words the sub-section as passed by the Legislative Assembly in a slightly more clear form.

Question put and amendment adopted.

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

"That to clause 35 the following proviso be added, namely:

'Provided that no insurer shall in respect of the business of life insurance carried on by him appoint more than 15 persons who for the purposes of insurance business employs agents.'

Sir, India is a vast country and it seems reasonable to limit the number of chief agents, that is 11 for the provinces in British India and four for Indian States.

Sir, I move.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I wish to say a few words on this amendment. Much has been said by the Honourable the Law Member on the difficulty of defining the chief agent. We have avoided the use of the words "chief agents". We have used the words which were used by the Honourable the Law Member, i.e., "persons authorized to appoint such agents". The wording should be "licensed agents". That is the only small change that should be made in this amendment. The reason why we wish to restrict the number employed, even if we cannot fix the allowances for them, is that we wish to minimize the troubles as much as possible. At the present moment they are allowed to have their chief agents—or whatever you might call them—on any remuneration they like and in any number they desire. The result will be that in each district you will have an agent authorized to employ licensed agents and he will get a commission of 20 or 30 per cent. That person will have no function except to be there to see that the licensed agents get something through the backdoor; out of his own commission the 20 or 30 per cent. which comes to him gratuitously he will give something to the licensed agents. The House and the Honourable the Law Member know how difficult and well nigh impossible it would be to catch him doing it and to prove it in a court of law, because there will be no records and people who are receiving this commission will not volunteer that they have received a commission from the person authorized to appoint agents. Therefore, to minimize the danger of indiscriminate giving of appointments of chief agents, I think it would be better if we adopt this amendment. We have allowed enough latitude to every company. Fifteen is a large enough number for the 11 provinces and four for the Indian States. If necessary, I have no objection to the number being increased to 20.

Sir, I support the amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I do submit to the House that these amendments have not been well thought out. The nebulous ideas in the mind of my Honourable friend Mr. P. N. Sapru have not crystallized. We are told first of all that because the Honourable the Law Member objects to chief agents and we cannot define them, he has not used the word "chief agent". Therefore it covers not merely chief agents but agents of all kinds. It covers district agents or local agents or managers, whatever they are. What happens if a big Indian company has got branches at 12, 15 or 20 places?

THE HONOURABLE MR. HOSSAIN IMAM: You can restrict the number.

THE HONOURABLE SIR NRIPENDRA SIRCAR: This shows how carefully these amendments have been drafted by the Opposition! Then my friend has not realized the other aspect, that he is roping in not merely chief agents but agents of all classes.

THE HONOURABLE MR. HOSSAIN IMAM: Then, licensed agents.

THE HONOURABLE SIR NRIPENDRA SIRCAR: The word "licensed" has not been used here. That is the fifth mistake which has been made in drafting the amendment!

Sir, I oppose the amendment.

Question put and amendment negatived.

Clause 36.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I move:

"That for clause 36 (1) the following be substituted, namely:

'No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to effect or renew an insurance in respect of any kind of risk relating to lives or property in India any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.'

May I explain, Sir? Here again, we are using the words "No person" instead of the words to be found in clause 36, "No insurer, no employer of an insurance agent, etc.". The object of this amendment is to make it clear that no person, whoever he may be, is allowed to pay any rebate, and in order to remove the lacuna which may have been left by the clause as passed by the Assembly, I propose that "No person" should be substituted for the opening words of the clause.

The other change is that my amendment adopts an amendment, or rather two amendments, in similar terms which have been notified. We have omitted the word "British" in "British India" which appears in the original clause as passed by the Assembly. I think those two are really the changes which we are making and I am sure the House will accept my amendment.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I beg to move an amendment to this amendment, which reads as follows:

"That for clause 36 (1) the following be substituted, namely:

'No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to effect or renew an insurance in respect of any kind of risk relating to lives or property in India any rebate of the whole or part of the commission or any remuneration paid or payable to him or any rebate of the premium shown on the policy, nor shall any person taking out or renewing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.'

Sir, the difference between the amendment moved by the Honourable the Law Member and the amendment which I am moving is that I have introduced after the word "commission" the words "or any remuneration paid or payable to him". The amendment moved by the Honourable the Law Member does give effect to certain amendments which have been given notice of by some of us and it prevents any person from giving any part of his commission to any other person—that is, the insured. But that applies only to his paying it out of his commission, and not out of

his remuneration. I do not think it is the intention of the Government that he should not pay it only out of his commission, but may pay a part of his remuneration. Therefore—

THE HONOURABLE SIR NRIPENDRA SIRCAR: Allow me to point out that his idea and my idea are the same, but we claim that we have done it because, if my Honourable friend will turn to the amendment I have moved, he will find these words. We have used only the word "commission" and not "commission or any other remuneration", and that is followed by "part of the commission payable or any rebate of the premium shown on the policy". Therefore, the whole amount of the premium on the policy has got to be paid.

THE HONOURABLE MR. G. S. MOTILAL: It applies to commissions and rebates only. It is true that he cannot pay any rebate from the premium. He is also not to pay anything out of the commission. But if he gets any remuneration or salary, it does not prevent him as the clause stands from paying out of his remuneration. Therefore, my amendment amplifies, and makes it clear that he cannot pay out of his commission or premium, but also out of any remuneration. I admit he cannot pay out of his commission; I also admit he cannot pay out of the premium; but he can pay out of his remuneration, and my amendment is intended to prevent him from paying anything out of his remuneration also.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. My Honourable friend has not proved any real difference in effect between his amendment and my amendment. The whole amount shown as premium has got to be paid by the policy-holder, which means that he is prevented from receiving anything which will reduce the full amount of the premium payable and therefore, I think, my amendment is quite effective.

I oppose this amendment, Sir.

Question put and substituted amendment negatived.

THE HONOURABLE MR. HOSSAIN IMAM: May I ask for your ruling, Sir, as to what will happen to the other amendments to clause 36 (1) on the list?

THE HONOURABLE SIR NRIPENDRA SIRCAR: They may be barred.

THE HONOURABLE MR. HOSSAIN IMAM: I suggest that they should be asked whether they wish to move those amendments or not.

THE HONOURABLE THE PRESIDENT: Why should I at this stage?

Question put and original amendment adopted.

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

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

THE HONOURABLE THE PRESIDENT: We shall dispose of two more amendments under section 36 (1) before we take up Mr. Kunzru's amendment.

The Honourable Mr. Ramadas Pantulu.

THE HONOURABLE MR. RAMADAS PANTULU: I am not moving, Sir.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Motilal.

(The Honourable Member was not present.)

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Kunzru.

Clause 35.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir, I move:

"That at the end of clause 35 the following new clause be inserted, namely:

'No person acting on behalf of an insurer who for the purposes of insurance business employs licensed insurance agents shall be paid or contract to be paid by way of commission or remuneration in any form an amount exceeding, in the case of life insurance business, 60 per cent. of the first year's premium payable on any policy or policies effected through the licensed insurance agents employed by him and 7½ per cent. on the renewal premium.

'Provided that insurers, in respect of life insurance business only, may pay during the first ten years of their business to persons who acting on their behalf employ for the purposes of life insurance business licensed insurance agents 75 per cent. of the first year's premium payable on any policy or policies effected through the licensed insurance agents, employed by him and nine per cent. of the renewal premiums.'

Sir, the House would no doubt first like to consider whether it is desirable that any restrictions should be placed on the commissions payable to persons popularly known as chief agents. The Bill limits the commission which can be paid to a licensed insurance agent. Now is that enough or is it desirable also to place corresponding restrictions on the man who might employ him for insurance purposes? This is not a matter which can be decided on *a priori* grounds. It is a question which can be decided only on the basis of facts. Those who have experience of insurance business are mostly agreed in thinking that unless the chief agent's commission is also limited the purpose of the Bill will not be fully achieved. Besides Honourable Members know that not all chief agents, even though authorized to employ insurance agents, actually employ such agents. There are chief agents, very big and respectable chief agents, who employ no insurance agents, who receive policies and pass them on to the companies of which they are chief agents. Now, in the case of these chief agents who employ no insurance agents and who therefore pocket the whole commission themselves, the restriction placed on the commission payable to agents will be no deterrent. The Bill supposes that all chief agents will employ insurance agents. That is not necessary at present. It seems that under the present Bill no person will be able to canvass a prospective policy-holder unless he is licensed. The definition of an insurance agent shows that no matter what method may be chosen by a man to procure a policy he will be regarded as an insurance agent and will consequently have to be licensed, if he does not want to come within the penal clauses of this measure. There appears to be however some uncertainty on the subject. If my Honourable friend the Law Member is able to remove that uncertainty then it will certainly be clear that no chief agent will be able to carry on business

except through licensed insurance agents. But, Sir, even if this assurance were given and it were certain that no chief agent could work except through licensed insurance agents which are controlled by the Bill before us, the freedom of the chief agent to receive any commission that he can demand may partially defeat the purpose of the Bill before us. I should like here to draw the attention of the House to a speech recently delivered by Seth Mathradas Visanji at the annual general meeting of the Indian Globe Insurance Co. I have no doubt the Honourable the Law Member is aware of it.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I referred to it in my speech.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I am sorry I did not hear him then and as I do not know what arguments my Honourable friend used to counter the suggestion made by Mr. Mathradas Visanji I would venture to draw once more the attention of the House to Mr. Visanji's statement. Mr. Mathradas Visanji said that one of the clients of the Indian Globe Insurance Co. had arranged to place the whole of his business, having a premium income of Rs. 60,000 annually, with the Globe Insurance Co. A well-known English company, having come to know of that arrangement, gave him a chief agency at 60 per cent. commission, *plus* Rs. 200 office allowance and ten per cent. profit commission. Now, I cannot vouch for the accuracy of the facts myself, but the statement having been made publicly by a responsible person who is himself prominently engaged in insurance business, I presume that it is correct. Now, Mr. Mathradas Visanji's statement relates to an English company. But that is not a matter of any importance. What has been done today by an English company may be done tomorrow by a rival Indian company. I certainly make no distinction in the matter of business rivalry between an Indian company and a foreign company. Both given the requisite opportunity, will be equally tempted to use their position for all it is worth in order to make the largest profit.

I hope, Sir, I have succeeded in establishing that it is desirable to place restrictions on the chief agent similar to those that are imposed on the licensed insurance agents. I have, however, yet to show, Sir, that some method can be devised which will prove effective in practice for this purpose. Now, the Honourable the Law Member gave two reasons the other day for being unable to give effect to the desire of the House that the chief agent should be treated in the same way as licensed insurance agents. He said in the first place that he could not think of any definition which would not cover not merely the chief agent but also other persons who, although not technically chief agents, employ insurance agents in order to carry on the business of the company on whose behalf they are acting. Most of the Honourable Member's artillery was directed against the use of the words "chief agent". Now, I have not used these words at all in my amendment. I have scrupulously adhered to the phraseology used by the Honourable Member in his own Bill. I hope, therefore, that so far as drafting alone goes, there is nothing unacceptable in my amendment. If there is anything that is unacceptable so far as pure drafting goes, then I venture to think that the responsibility is that of the Honourable the Law Member himself. Now, Sir, it may be said that even the definition that is at present proposed is not restrictive enough. I would say

[Pandit Hirday Nath Kunzru.]

that there does not seem to be anything in the amendment moved by me which would prevent the branch of a company from carrying on its business in the manner that it is doing at present. In other words, it does not seem to me that if this clause is passed, the manager of a branch office will not be entitled to receive any salary that might be agreed upon between him and his company.

Sir, the other argument which was used by my Honourable friend the Law Member related to the interests of newly established companies. I am sure that the Law Member was equally solicitous of the interests of the younger companies when he decided to fix the remuneration payable to licensed insurance agents. He found a way of allowing greater latitude to newly established companies than to the older companies. I have used precisely the same method in this case in order to differentiate between the older and the younger companies. Realizing the difficulties of the younger companies to which the Honourable the Law Member has drawn pointed attention several times, I have taken care to draft my amendment in such a way as to enable them to offer their chief agents substantially better terms than the older companies can; and I have done this not merely in the case of the first year's premium but also in the case of commissions on renewal premiums. I hope, therefore, that I have met all the objections that were raised the other day by the Honourable the Law Member.

This morning, Sir, my Honourable friend speaking on an amendment relating to the control of chief agents' commissions referred to the case of district agents. As I was listening to him I wondered whether he would object to my amendment on the same ground. I hope, Sir, he will not. A chief agent may operate over a large area or over a small area. A chief agency may be given for a whole province or for a district. But whatever the area of the agency may be, the principle which I am contending for seems to be equally applicable. There remains, however, to consider one more case. A chief agent operating over a large area may himself like to appoint a district agent. Now, I do not know whether this would be allowable under the Bill? Well, if it is, let the chief agent and the district agents come to any agreement they like among themselves. But, I do not see why the existence of a district agent apart from the person who is popularly known as a chief agent should stand in the way of Government accepting the amendment that I have ventured to put forward.

Sir, I move.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, I rise to support this amendment. My reasons are the same which I have said already; that we want to safeguard the interest of the young companies from their friends. There is no doubt that the Honourable the Law Member has gone out of his way to help the younger companies and in doing so he has not considered the case of the policy-holders as much as that of the young companies themselves. Even at the cost of the policy-holders he has tried to help the young companies and therefore, Sir, if we say that we wish this amendment to be made, it is not that we question the help that the young companies have received from the Honourable the Law Member but we feel that for some reason or other which we cannot understand ourselves the Honourable the Law Member

does not think it fit to come to the rescue of the insurers and the policy-holders. The position at the moment, Sir, is that the companies (we are discussing not only the young companies), are allowed to appoint under the law (there being no restriction to their appointing chief agents), district agents or even tahsil agents. Now, what happens? We have provided under the statute that the licensed agents will get so much commission. But in the books of the company you have not provided that they should show what they have paid to the agents licensed under section 42. What commission the agents who are licensed receive cannot be found from the books of the companies, because under the schedules the only provision is for composite commissions—I am referring to Form D—Commission allowances—it is a composite heading without any indication of the amount to be paid to the field workers. The reason for this provision is that the Honourable the Law Member realized that these insurers will be unable to supply us with the figures of payment to field workers, because a very small amount will be paid directly by the insurers. Most of the payments will be made through the chief agents or branch managers or whatever you like to designate them. Now, what is the check which your accounts give you to find that these insurers are not giving away higher rates of commission than was provided by the Act? No provision has been made here that the persons authorized by the insurers to appoint licensed agents will submit a return of the amounts which they have paid to each individual worker. What provision have you made?

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian-Christians): You can always change it.

THE HONOURABLE MR. HOSSAIN IMAM: Sir David Devadoss says we can change it. But the Honourable the Law Member was questioning one of our Members for having brought forward an amendment without considering all the implications thereof. What are the Finance and Commerce Departments there for? They have got Secretaries and offices and everything else. This thing has been thrashed threadbare in the other House. We were told, Sir, that the other place has considered the thing very well and therefore we here have no business to suggest anything.

THE HONOURABLE THE PRESIDENT: Who said that?

THE HONOURABLE MR. HOSSAIN IMAM: That was, Sir, the implication.

THE HONOURABLE THE PRESIDENT: Where did the implication arise?

THE HONOURABLE SIR NRIPENDRA SIRCAR: You drew an unfounded inference yourself although it was not intended. You can please yourself.

THE HONOURABLE MR. HOSSAIN IMAM: Well, Sir, that was exactly the meaning of the remarks which the Honourable the Law Member passed, and I may say, Sir, that we in this House do not generally degenerate to the levels to which the Members in the other place do, or to which they are accustomed. We have some dignity still left and we are not habituated to the mutual treatment which is meted out to the Members in the other place.

[Mr. Hossain Imam.]

Sir, I was saying what provision has the Honourable the Law Member or his Departments made to find out what is being paid to the licensed agents? I shall wait for the Honourable the Law Member to enlighten me whether he has provided for this.

Now, Sir, I will explain the state of affairs. The Honourable the Law Member in replying to a friend of ours stated that he has listened to the representations of hundreds of people coming from young companies and perhaps the Member of my Party had an interview or got the information from only one company and therefore his statements were only exactly one per cent. of the knowledge of the Honourable Member. I also, Sir, plead guilty to the same charge. I also have taken the help of one or two companies and I state with full knowledge and confidence—if need be I can give names, if the Honourable the Law Member will not be convinced otherwise—that the condition of affairs, Sir, is that the chief agents have entered into contracts for terms of years with the insurers. The usual rates, Sir, in companies who are moderately well-off and who are not quite young, is to pay 75 to 80 per cent. of the first year and ten per cent. of the renewals to these chief agents. I am talking about life insurance companies. Now, Sir, the contract being for a number of years, what happens? If we have reduced the commissions to be paid to the field workers we have not provided anywhere that the contracts will be modified. The young companies who had contracted to pay 100 per cent. to the chief agents for ten years will be still bound under their contract to go on paying 100 per cent. and all the advantages of this law will be reaped by the chief agents and not by the insurers and if the advantages do not come to the insurers the policyholders do not benefit. I have, Sir, a knowledge of an insurer who has got an agent on ten years contract in Calcutta at 100 per cent. of the first year's premium. All the expenditure of the head office is met from either the reserves or other sources. It may be aptly asked, Sir, was it the intention of the Legislature to better the position of the policyholders and the insurers or was it their intention that only the chief agent should benefit by it? If it was not the intention to benefit the chief agents alone, then the Law Member should have provided that all the existing agency contracts would be reduced because of the reduction made in the amount to be paid to the field workers. The Honourable Member may say that it was partly our duty as well, that we ought to have been vigilant, that we ought to have provided for it. But, as I said in the beginning, Sir, we are handicapped by the fact that we are in a permanent minority in this House, and further, Sir, because we have not that equipment with us which the Government has at the cost of the taxpayers.

Now, Sir, what is the position? As some Honourable Members have pointed out previously, in order to get over the smaller commission allowed to the field workers or in order to enrich the friends and admirers of the managing agents in each district you will have a special agent who will not be in charge of the canvassing business but will be empowered to appoint agents on behalf of the insurers and thereby he will be evading the law. The insurer will not be dealing directly with the field workers, the persons who employ the field worker of the insurer have no accounts to render to anybody, as they are neither registered nor subject to any restriction. Merely the fact that he is not empowered to pay

rebates does not stop it, rather it makes it much more difficult to prove a thing like this in a court of law. Sir, in a court of law you have to make out not only a *prima facie* case but you have to prove it in a judicial way and how can you prove it when you make both the persons who take it and who give it guilty, and there are no accounts to be submitted by other persons, either by the insurance agent or by the district agent or whatever name you give him? I may say, Sir, that the whole advantage of this Bill is to be reaped by the chief agents—.

THE HONOURABLE THE PRESIDENT: We are not discussing the third reading of the Bill at the present stage; we are only discussing a new clause proposed by the Honourable Mr. Kunzru.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I have always tried to confine myself within the four corners of the Motion before the House. I think that it is necessary that a provision should be made fixing the quantum of commission to be paid to the persons who are empowered to employ licensing agents. Now, I should like to deviate a little from life insurance to that of general insurance. There the conditions are if anything worse. There, Sir, agencies are given not so much to canvass business as to find a legal method of paying an extra rebate. The Honourable Members of the European Group are fully conversant with all the abuses of the tariff as it exists in the case of fire business especially. There, Sir, as you know, there is a tariff and all of the people who are working in it practise that tariff. Although they are authorized to pay only $7\frac{1}{2}$ per cent., they all get round this by paying something for this account and something for that account. One of the ingenious methods is to pay $7\frac{1}{2}$ per cent. as commission and 40 per cent. as a consolidated travelling allowance, and thereby to pay $47\frac{1}{2}$ per cent. Further, I know of instances of very respectable firms who control great business—mills, and likewise—who get chief agency from the insurers merely because by that means they can give additional commission or call it rebate or call it a present to the managing agents so that the business of that concern may go to one particular insurer. I see the Honourable Mr. Nixon nodding but I can say that I can give the names, if he wants of two very respectable people, well-known alike in the Legislature as well as in public life—.

THE HONOURABLE MR. J. C. NIXON: On a point of personal explanation, Sir. My Honourable friend has misunderstood the meaning of my nod!

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I may tell the Honourable the Law Member that the big Bombay business has any amount of talent available to break any law with impunity—call it evasion if you like. The big Bombay business is in a premier position in this respect and others perhaps follow and learn from them.

Sir, I was saying that this method of the insurer is particularly harmful to the new Indian offices. We have European firms, a great majority of whom do fire and marine work but this is not the case with Indian companies. I have no quarrel with that but the House will realize that they have been long established and their field of operation is world-wide and therefore it is possible for them to give concessions which it would not be

[Mr. Hossain Imam.]

possible for the Indian insurers to give. And therefore we ask that these methods of indirect rebate cannot be checked by the provisions which the Honourable the Law Member seeks to place on the Statute-book of stopping direct rebate. The managing agent will be appointed as the agent of the insurer and, as I said, he will receive all the commissions; and, after that, the goods and the shareholders' buildings and the mills will be insured with that particular insurer. This is the simple thing which is done in most of the industrial concerns and there is no check provided by the Bill, as far as I can understand.

Now, I come to another question. One of the reasons which I personally think is standing in the way of the acceptance of our amendment for fixing the quantum of commission to be paid to the chief agents is, that it would be a genuine grievance of our European friends. The European firms here are acting as the representatives of foreign insurers. They have to maintain offices, they have to employ managers and other works at a high rate of salary. Even the rate of commission which would satisfy the Indian chief agents would be very hard on Europeans. Their position is altogether different to that of the chief agents and like people who are working in India because the insurer is there to do all the work and the chief agents' business is simply to organize a small area, he has not to maintain an office of a like nature or to pay to his manager the same amount of money which, say, Bird and Co., have to pay. Therefore, they would be perfectly justified in opposing this amendment. But was it not possible to find a *via media* and to frame an amendment which could have covered the position of the Indian insurers and at the same time given some latitude to our European friends? It might be said that it was part of our work, but I plead guilty to the charge that I did not know of this, and it was only lately brought to my notice that this was a great stumbling block to the acceptance of any amendment of this nature. My point is, that although we have done all that was possible for us to help the Government with our imperfect organization and want of secretariat, we expected Government, when they were making amendments to put in commas and semi-colons, to consider also if there was any big loophole left. It is only when this Act has been working for some years that we shall be able to know whether our fears were groundless or not. We personally believe that our fears are very substantial. I quite appreciate the objection of the Honourable the Law Member that he has not provided for all eventualities and that it might be very hard on some of us. That we are prepared to concede. But our difficulty is so great that in order to better the lot of the majority of the people it is sometimes in the interests of the State to do harm to a small number of people. Just at the moment we are doing everything possible for the benefit of the insurers in general and the policy-holders in particular. We are indulging in a thing which was called expropriation by Sir Homi Mody because the Government were breaking the contracts of the managing agents without paying them any compensation. The defence of the Honourable the Law Member was, as far as I can remember, not that they deserved it, but that exigencies of public life made it necessary. Similarly, although a case might be made out that it would be hard on some people, it is not necessarily a sufficient reason for rejecting this amendment.

Sir, I support the amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, before I deal with the arguments which have been advanced by the Honourable the Mover of this amendment, Pandit Hirday Nath Kunzru, I would like to dispose of the wholly unjustified remarks of my Honourable friend Mr. Hossain Imam. He gave me the instructions that whereas I could do whatever I liked with the Assembly Members, the Council of State is a different proposition. Sir, I treat both alike, namely, with respect, and my friend's observations were altogether unjustified. Possibly, he had not much to say on the amendment itself and therefore he had to get his time occupied with some irrelevant matter by making unjustified remarks!

Now, Sir, I come to the merits of this amendment. Once more with the greatest respect to Pandit Hirday Nath Kunzru, realizing that he is a Member of the Council of State and that I am not addressing the Assembly, may I say with great respect to him that he has not, and far less has his learned friend, who came to his rescue without doing any good to his argument, seen the complete picture? Without indulging in generalities, let me take a concrete instance and try to apply that to the amendment which has been moved by my Honourable friend. I shall take the case of there being a Scottish Insurance Company in Great Britain. Let us call it the Scottish Insurance, Ltd. Their agents in Calcutta are Jones and Smith, Ltd. Jones and Smith are their representatives in Calcutta and they may be called chief agents. In fact, they may have larger powers than the chief agents. I am not going into that possible distinction. Messrs. Jones and Smith appoint chief agents, one for Bombay and another for Madras. The chief agents in their turn, being unable to attend to the duty of appointing licensed agents, or for some other reason divide their provinces into four circles and they appoint four district agents with authority to them to appoint licensed agents. The district agent will appoint the licensed agents himself. He will be the appointer and the licensed agent will look to the district agent for appointment.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: May I interrupt my Honourable friend? Cannot this difficulty be got over by the simple device of asking for formal permission for the appointment of the agent from headquarters? The district agent may function but without directly authorizing the licensed insurance agents to work.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I shall deal with it in a minute. Continuing my illustration, Sir, I would like to apply the amendment to the state of affairs I have suggested. The person acting on behalf of the insurer, namely, Messrs. Jones and Smith, who for the purpose of insurance business has employed chief agents in the illustration I gave, cannot appoint licensed agents, but the district agent, who has one-quarter of the province of Bombay under him, can appoint licensed agents. Therefore, that man cannot do more than certain things which are described in the amendment. But what about Messrs. Jones and Smith, Ltd., and what about the chief agents? Has my Honourable friend Mr. Hossain Imam tried to deal with the main points in the case? I am not making any points of drafting language. If we agree as to ideas, the drafting language can be put in order in a moment. But our ideas conflict and with the greatest respect I state that my Honourable friend has, at any rate, failed to consider the complete picture. He has been thinking of one case and one case alone.

[Sir Nripendra Sircar.]

As to the last interruption which I welcome because it makes good my point a little more. He asked, "What is the difficulty?" Why cannot formal permission be taken from headquarters? May I ask why should that be done, when law does not require it? Your idea is to hit him. You are giving him a loophole under this amendment and if it is passed he can do whatever he likes. He can receive 200 per cent. from the home office. You are not stopping him. Why should he move his little finger to help you in any way? Why should he propose to reduce his remuneration by asking for permission from headquarters? We have been considering this for days and if any proper amendment had been moved in the Assembly, I might have considered it. But no such amendment was moved, and I stressed on the difficulty of framing such an amendment.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Will the Honourable Member mind making himself clearer? I have not grasped his point?

THE HONOURABLE SIR NRIPENDRA SIRCAR: I shall try once more and I reciprocate my friend's sentiments because I have not understood his point either. The point is this and I will repeat it once more.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I want you to repeat only the last point.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I beg your pardon. The last point is this. My point is, why should the district agent go out of his way to help you to remove a difficulty when the amendment does not create any difficulty in his way? What is the incentive? Why should not Messrs. Jones and Smith go on getting 100 per cent. from the home office? This amendment is designed to hit them. It hits only the man who is appointing the licensed agent. Therefore, most of these amendments contemplate only one thing. Here is the company who has appointed its chief agent and the chief agent, in his turn, is appointing the licensed agents. Shut out the chief agent and peace reigns in the insurance world! The Honourable Mr. Hossain Imam will feel happy if I could agree to it, but he will not realize that, as a matter of fact, you are not stopping the evil at all. He will not realize that in spite of this amendment Messrs. Jones and Smith, Ltd., will continue to get their 100 per cent. from the home office. It will be quite legitimate and it is obvious that they will say: "We have not appointed any insurance agent: do whatever you like with the district agent who has appointed insurance agents. We are out of the picture. We will take our 100 per cent. from the home office all right". Then, my Honourable friend Pandit Hirday Nath Kunzru said that on the last occasion my artillery was against the chief agent and therefore he has quoted my language and he has not used the expression "chief agent". Not having used the words "chief agent" and having used expressions which I have used in clause 35 for quite a different purpose and for quite a different object, he has moved this amendment with the result which I have indicated to the House. That is to say, Messrs. Jones and Smith, Ltd., if they want, can get their 100 per cent. from the home office. Sir, the main object of this Bill is not to bring about that perfection for which my Honourable friend Mr. Hossain Imam and ourselves are longing. Has he shown us the way? No. The

main object of the Bill is this, that as a matter of fact, we know that many of these Indian companies, especially the smaller companies are coming to grief with negative life funds? For what reason? The reason is that they are going on paying more and more rates of commission to what are called the field workers whose employment in the insurance line will, I have been told today, solve both the detenu problem and the unemployment problem! The field workers are getting more and more and more and therefore the funds are depleted and the life policy fund comes to a negative or an inadequate quantity. That is the reason. Is it not? The further consequence follows that if the chief agent knows that the licensing agent wants more and more because out of that he will have to pay a portion to the person who is applying for the policy, or what we call rebate, then the chief agent has got to agree to the increasing demand of the licensing agent. We are closing these two ends. We are not trying for perfection, nor will the amendment of my Honourable friend mean perfection. It will make things worse.

Then, Sir, as my Honourable friend was not here and he would like to know what I said about Mr. Mathradas Visanji's speech, I would repeat it. What was Mr. Mathradas Visanji's example? It was this. Somebody wanted to insure in the Globe Insurance Co., and if that had gone through the company would have got about Rs. 50,000 or Rs. 60,000 as premium. How was it avoided? Some other company, a rival company, came to the man who wanted to insure with the Globe and said, "Come along. Why insure with the Globe? I will appoint you as chief agent. I will give you 50 per cent. commission. You can insure with me". Thereupon the intending assured was seduced. Now, Sir, let us see what this illustration boils down to? It means that a person who wanted to insure with the Globe Insurance Co. was seduced or that he was paid a bribe which was in the shape of a chief agency. Now, Sir, it suited Mr. Mathradas Visanji to give an example of the payment of a bribe in the shape of a chief agency. But surely if that door is closed now, how do we get over the difficulty? Supposing a big company had said, "Never mind, we are not paying you any commission. We will not appoint you as chief agent, but we shall appoint your nephew as sub-manager, or one of your grand-nephews as clerk" and so on. Can you prevent that? Is a chief agency the only form of bribe thinkable which can be offered to seduce a particular individual to run away from a particular company to another? That illustration has no particular force at all. That is what I said and that is what I repeat.

My Honourable friend Mr. Hossain Imam picked another hole in this Bill. He said that the obvious point had not been recognized, namely, supposing there are contracts which run for the next 12 years. What about them? The Government who have got such a big secretariat, and so on, they have not attended to this matter. Nor has my Honourable friend taken the trouble of putting in an amendment to cure that defect if there was one. But there is no defect at all. Because, when my Honourable friend is attending to the Insurance Bill, he cannot completely forget the general law of the land. What happens under the Law of Contracts? If some payment is forbidden is there not a section somewhere near section 23 which will make this payment illegal in spite of this existing contract? Will the general law permit, after a thing has been forbidden by statute, to make that payment because there was a previous contract? My Honourable friend has forgotten such an obvious point.

THE HONOURABLE MR. HOSSAIN IMAM: On a point of personal explanation, Sir. What I said was that the contract giving 100 per cent. to chief agents cannot be broken merely because we have said that the field workers will get 40 per cent.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I hope my Honourable friend does not have such a simple way of escape. But that is not really the question. There is no provision in this Bill to provide limitation for commission to the chief agents. Therefore that point does not arise. That is not what my Honourable friend meant. If he meant that, that is obviously irrelevant. Having regard to the scope of the Bill as we are not limiting the commission, why should, if a chief agent is paid at a certain rate, the contract be illegal? Is there any sense in it? My Honourable friend said something about my remarks about the big Bombay business and their evasion, and so on. Much as I attacked the big Bombay business, I never said that they are adepts, or any the worse than others, in the matter of evasion of law. I never said that. After all my Honourable friend, as a lawyer, ought to remember what has often been said by the courts about what you call evasion. It is mere abuse. But if something can be legally done without being hit by the statute, then that is legitimate. That is permissible. That has been said by the highest Court in England repeatedly in connection with income-tax cases when the argument was advanced, "This is an obvious evasion". What is meant by evasion? If you can legally contrive to get out of the statute by legal methods, it is not vitiated by being called "evasion". My point is that I made no such insinuation against the big Bombay business. I did not say that they have made a special study of evasion. I dare say if evasion is required, there are lawyers enough both in this House and outside who will help them!

Sir, as regards the main point as to why limitation of commissions could not be fixed, I think it will be waste of time of the House to go on repeating my arguments. Whether my arguments are right or not, I have advanced these arguments at great length on the floor of this House and I will only conclude by saying that I oppose this amendment.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 35, as amended, stand part of the Bill."

The Motion was adopted.

Clause 35, as amended, was added to the Bill.

Clause 36.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to move:

"That for clause 36 (2) the following be substituted, namely:

'Any person making default in complying with the provisions of this section, shall be punishable with fine which may extend to one hundred rupees, unless the default is made by a person effecting or renewing a policy, in which case he shall be punishable with fine which may extend to fifty rupees only.'

Sir, I may inform the House that this is purely a consequential amendment. We have changed the language of the previous sub-section and

used the words "No person", and therefore in the penalty clause we have got to use again the words "Any person". There is no change of substance indicated by this amendment.

Sir, I move.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 36, as amended, stand part of the Bill."

The Motion was adopted.

Clause 36, as amended, was added to the Bill.

Clause 38.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to move:

"That in clause 38 (1) after the word 'insurer' the words 'and every person who acting on behalf of an insurer employs licensed insurance agents' be inserted."

Sir, these words have been adopted in the previous section.

Sir, I move.

Question put and amendment adopted.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to move:

"That for clause 38 (2) the following be substituted, namely:

'Any individual not holding a licence issued under section 42, who acts as an insurance agent, shall be punishable with fine which may extend to fifty rupees, and any insurer who, or any person, acting on behalf of an insurer who, appoints as an insurance agent, any individual not so licensed or transacts any insurance business in India through any such individual, shall be punishable with fine which may extend to one hundred rupees.'

Sir, I should explain to the House what changes have been introduced. Honourable Members will see that I have put in the words "any person" whereas in the Bill as passed the word was "insurer". Here again the idea is the same, *i.e.*, to make the scope wider and we should have not only the insurer but any person whatsoever.

Sir, then I have added the words "acting on behalf of an insurer". These have been added in two previous sections.

Sir, I move.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 38, as amended, stand part of the Bill".

The Motion was adopted.

Clause 38, as amended, was added to the Bill.

Clause 38A.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to move:

"That for clause 38A the following clause be substituted, namely:

'38A. Notwithstanding anything to the contrary in a contract between any person and an insurance agent licensed under section 42 forfeiting or stopping payment of renewal commission to such insurance agent, no such person shall in respect of life insurance business done in India refuse payment to an insurance agent of commission on renewal premiums due to him under the agreement by reason only of the termination of his agreement except for fraud:

'Provided that such agent has served such person continually and exclusively for at least ten years, and provided further that, after his ceasing to act as agent, he does not directly or indirectly solicit or procure insurance business for any other person.'

The change, Sir, is that we have replaced "insurer" by "any person" in the first paragraph, and we have done the same in the second paragraph as well to increase the scope of the section.

Sir, I move.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: With regard to this amendment, Sir, I have two amendments to submit, Nos. 77 and 78.

THE HONOURABLE THE PRESIDENT: They can be taken up afterwards. If this amendment is passed, all the amendments from 71 down to 77 will be barred, in my opinion.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: May I suggest to you, Sir, that you might allow us to move the amendments bearing on clause 38A, so that the issues which they raise might be discussed? If you put the clause as moved now by the Honourable the Law Member, we shall be unable to have a discussion on the vital issues that we want to raise now.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, this is really in the nature of an amendment to my amendment and this amendment might be moved and the whole thing might be disposed of after discussion. Because my friend's amendment is really an amendment to my amendment, I have no objection to the Honourable Pandit Kunzru moving his amendment.

Question put and amendment adopted.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Are amendments still permissible?

THE HONOURABLE THE PRESIDENT: They are not. In my opinion, they are barred.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Nos. 77 and 78 are barred. But the Honourable Pandit Kunzru's amendment stands on quite a different footing.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: The point was whether you would give us an opportunity of moving that the period of ten years in the proviso be reduced to five years. I respectfully submit that we might well have been given an opportunity of doing this.

THE HONOURABLE SIR NRIPENDRA SIRCAR: That will be too late now, Sir. I have no objection whatsoever to the moving of Pandit Kunzru's amendment because that is in the nature of an amendment to what I have moved. The House has now decided on ten years. It was up to my Honourable friend to have got up earlier and moved that it should not be ten years, that he objects to my amendment and that it should be five years. What will be the effect if the House now passes five years? The House has already made it ten years. How can it now change it to five years? That is my submission—that these two amendments, Nos. 77 and 78, are barred.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: My Honourable friend has misunderstood my position. I did not say that we should be given the right to move an amendment to a clause which had already been passed. I made a submission to the Honourable the President before he put the clause (clause 38A) to the vote that he should allow us to move all the amendments to that clause that were on the agenda in order that they might be considered before the clause was passed. And I thought that the Chair had kindly agreed to it.

THE HONOURABLE THE PRESIDENT: You could have taken objection then. You could have urged that "ten years" should be reduced to "five years". It was open to you at that stage.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: The amendment stood in the name of the Honourable Mr. Kumarsankar Ray Chaudhury also. He did get up but unfortunately he did not catch your eye.

THE HONOURABLE THE PRESIDENT: That is very unfortunate. I cannot help it.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: I rose and asked you as to what will happen to my amendment No. 77. You said it will be taken up later.

THE HONOURABLE THE PRESIDENT: You ought to have got up and moved that amendment. You just referred to it and asked me.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: He got up, but unfortunately he did not catch your eye.

THE HONOURABLE THE PRESIDENT: I am very sorry for that. I cannot catch the eye of every Honourable Member. All the amendments on the list up to 77 are barred.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: My second amendment will serve the purpose which the first amendment was meant to serve. Sir, I move:

"That in the proviso to clause 38A after the words 'ten years' the following be inserted, namely:

'or has secured for the insurer insurance business of the value of not less than two and a half lacs of rupees'."

[Pandit Hirday Nath Kunzru.]

Sir, when the Bill was being generally discussed, I ventured to draw the attention of the Honourable the Law Member to clause 38A. I then said that good insurance agents were expected to get in an annual business of from Rs. 50,000 to Rs. 1 lakh. If the minimum limit of ten years laid down in the clause were insisted on, an insurance agent might be unable to demand a commission on renewal premia on the policies secured by him even though the value of the business procured by him might be sufficiently high. I am precluded, Sir, because of the procedure followed, from moving the first amendment asking for the reduction of the period of ten years to five years, but I am happily still in a position to ask the Honourable the Law Member to allow licensed insurance agents, who have brought in business of a certain value, to be entitled to the payment of the commission on the renewal premia on the policies procured by them. I hope this amendment will be acceptable to Government.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I venture to point out to my Honourable friend Pandit Kunzru that this is not so simple as it looks. I agree that a man who has worked successfully and brought in work to the extent of Rs. 2½ lakhs should be properly treated. But look at another case. After all, Rs. 2½ lakhs in the business of life insurance is not very much. Now, supposing a man, in the first year, manages to bring this work. In the second year he deserts this company and goes to some other company.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: That does not arise at this stage. Your clause bars that.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Let me finish. That is a case which is covered by the clause as it has been passed as also by the amendment. Take the next case. He does not join any other company. He may be doing some other work. He has given up life insurance and possibly he has now become a banker, doing banking business. But he acts in a way which is inconsistent with the relationship which ought to exist between a master and a servant or between a master and an ex-servant who still expects to get remuneration from his old employer. Suppose he takes it upon himself to go out of this company, to go against the interests of this company, to tell people that this is not a good company and that he chucked his job and came out because this company is no good. Now, let us see, whether under the ordinary law and the terms of the contract I can be compelled to pay him if he is acting against my interest the employer? No.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: But that is prevented by the clause.

THE HONOURABLE SIR NRIPENDRA SIRCAR: This is not prevented. May I read the section again, my friend is so emphatic and I may be wrong. Let me see. "Provided that such agent has served such person continually and exclusively for at least ten years". I am not dealing with that because that appears in my amendment. His amendment is for helping the man who has secured work to the extent of two and a half lakhs, having worked for only one year, provided "he does not directly or indirectly solicit or procure insurance business for any other person". That also

I have assumed. I have assumed that the man has gone out after the first year. He has started as a banker or as a manufacturer or joins some other service; he is not soliciting business for any other insurance company.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: He is only maliciously blackmailing.

THE HONOURABLE SIR NRIPENDRA SIRCAR: It is a question of blackmailing. Under general law and terms of his contract the man may not be entitled to further remuneration. The ex-servant can go against my interest in a hundred different ways. But it may be said, then why do you have your clause at all? To that the answer—

THE HONOURABLE MR. HOSSAIN IMAM: That can happen after ten years.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I do not want to be interrupted, Sir, especially as I know there is no substance in it. Why do you introduce this principle arbitrarily? What the Assembly considered, or rather those who moved this amendment which we accepted, considered was this: that after all if a man has served you faithfully for such a long period as ten years then for his sake we may be prepared to give the go-by to the strict law applicable to the employee under the general law and the terms of his contract. But I am not prepared to do that in the case of a person who has served me for only one year and he is then either going against my interest, or by some other act or conduct is debarring himself from getting further remuneration. Sir, that is why ten years was thought of. Again, it may be nine or seven or twelve years. But surely you do not want to include in this a man who serves you for six months only and from that moment behaves in a way which precludes him from claiming further remuneration. He cannot then continue year by year to receive an annually accruing remuneration from which he is precluded by the terms of his contract, and the general law, if any, applicable to his case.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I rise to support this amendment. The argument used by the Honourable the Law Member can be reverted against him, that if it is a sin and it is possible for a man to go against and maliciously blackmail the company after having given it Rs. 2½ lakhs of business, it is possible for him to do it after ten years as well.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I never said "blackmail".

THE HONOURABLE MR. HOSSAIN IMAM: I take back that word. I was saying that in an insurance company the period does not count, it matters not how long a man serves; it is the quantum of his work which is the criterion of a man being serviceable or non-serviceable. A man can be in the service of an insurer for 20 years and not give him enough business. The Honourable the Law Member is quite conversant with the affairs of life insurance companies. He knows better than I do that there are individuals who give an insurer Rs. 5,000 or Rs. 10,000 work in the

[Mr. Hossain Imam.]

year and then for a year or two they do not give any work. The insurer goes on reminding them to send more work; then again they come forward with Rs. 5,000 or Rs. 10,000, and so on. What is the special qualification of those who have been in service for ten years and have supplied very small amounts of business? The man who gives you such a huge amount as Rs. 2½ lakhs is not something to joke about when you are considering our young companies. Rs. 2½ lakhs you will find is the average of the existing business of 150 companies. You cannot say that it is a paltry sum which every agent can produce. Agents of the Sun and the Oriental might give you Rs. 2 lakhs of business in a year or two, but there is not one company, I may say, which has been formed, barring the Lakshmi, of four years' standing in which a single agent has given Rs. 2 lakhs of business in two or three years. You do not find such enormous work coming to the young companies otherwise they would soon be in the category of the old companies because of the amounts they would receive.

Sir, the other argument of the Honourable the Law Member that the value of the business, Rs. 2½ lakhs, is very small, leads one to suggest that we might have a bigger amount. We, Sir, would not have any objection to increasing this, as long as we judge the insurance agent on his work and not on his period.

In addition to this I would like to point out that so far we have been trying to serve the field workers, and one Congress man in the other place wanted to be assured that the field workers will get a certain minimum pay. Although I do not wish to go to that length, I do wish that provision should be made that a man who has given his best to the young company should receive his reward and not be penalized merely because he has not served a full term of years.

Sir, I support the amendment.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: My Honourable friend the Law Member referred to the law of master and servant. My submission is, that the law with regard to the relationship of master and servant may not be applicable in this case because it is a remuneration for service already done. He is not a paid servant in the sense that he receives a monthly pay.

THE HONOURABLE SIB NRIPENDRA SIRCAR: May I correct my friend? I also used the word "ex-servant", the law applicable to the ex-servant.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: If the remuneration has already been earned by him for work already performed, that will take the case out of the relationship of master and servant and he is entitled to get his remuneration whether he continues in service or not.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 38A, as amended, stand part of the Bill."

The Motion was adopted.

Clause 38A, as amended, was added to the Bill.

Clause 102C.

THE HONOURABLE THE PRESIDENT: We come back now to amendment No. 198, where we stopped on account of Mr. Hossain Imam's amendment to Mr. Bartley's amendment. I understand the Honourable Mr. Bartley has given notice of a revised amendment. Do you agree to that?

THE HONOURABLE MR. HOSSAIN IMAM: Yes, Sir.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Bartley.

THE HONOURABLE MR. J. BARTLEY: Sir, in place of the amendment standing as No. 198 in the list, I would propose to move an amendment in this revised form:

"That to clause 102C the following be added, namely:

or to any insurance business carried on by the Central or by a Provincial Government, or to any provident fund to which the provisions of the Provident Funds Act, 1925, apply, or, if the Superintendent of Insurance so orders in any case, and to such extent as he specifies in such order,

- (a) to any fund in existence and officially recognised by the Central Government before the 27th day of January, 1937, maintained by or on behalf of Government servants or Government pensioners for the mutual benefit of contributors to the fund and of their dependents, or
- (b) to any mutual or provident insurance society composed wholly of Government servants or of railway servants which has been exempted from any or all of the provisions of the Provident Insurance Societies Act, 1912."

Sir, the first portion of this down to the word "apply" in the third line is as before. The contents of sub-clause (a) were in the amendment which appears on page 23, but now the exemption applies to them only if the Superintendent of Insurance so orders. The class referred to in clause (b) is a new importation to cover certain provident insurance societies which it was desired by the Honourable Mr. Hossain Imam to include and which were not apparently covered by the wording which we adopted in the original draft.

THE HONOURABLE MR. R. H. PARKER: May I ask for a little information, Sir? There is no reference here to registered provident funds under the Income-tax Act? Is that the deliberate intention?

THE HONOURABLE SIR NRIPENDRA SIRCAR: The intention is not to include anything more than what is stated here and the Insurance Bill has bearing on funds for purposes of income-tax.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 102C, as amended, stand part of the Bill."

The Motion was adopted.

Clause 102C, as amended, was added to the Bill.

First Schedule.

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

"That in Part I of the First Schedule, to regulation 6, the words 'in India' be added."

This is merely an accidental omission, Sir.

Question put and amendment adopted.

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

"That in Part I of the First Schedule, in regulation 8, for the word 'Controlled' the word 'Subsidiary' be substituted."

Sir, the word "Controlled" was removed from all the places in which it appeared in the Schedule except this place. It was left here accidentally.

Question put and amendment adopted.

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

"That in Form A, Part II of the First Schedule on page 49, the words 'Holdings in Subsidiary Companies (f)' be shown as a separate item."

THE HONOURABLE MR. J. BARTLEY: May I explain that in the reprinted version of the Bill this mistake, which was a printer's error, has been corrected.

The amendment was, by leave, withdrawn.

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

"That the Item '(2) Indian Treasury Bills' from Form AA in Part II of the First Schedule be omitted and the items following be re-numbered (2) to (20)."

THE HONOURABLE MR. HOSSAIN IMAM: May we ask the reason for this amendment?

THE HONOURABLE MR. J. BARTLEY: The reason is that Item (2) is included in Item (1), which is Government Securities. It is superfluous.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the First Schedule, as amended, stand part of the Bill."

The Motion was adopted.

The First Schedule, as amended, was added to the Bill.

The Second Schedule was added to the Bill.

Third Schedule.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I am moving amendment No. 207, subject to this, Sir. There are four parts, (i), (ii), (iii) and (iv). I shall move only (i), (ii) and (iv), which are purely formal. I am omitting (iii), because we have got substantially the same in the names of other Members of the House which we propose to accept, namely, 209. Sir, may I therefore move:

"That in Part I of the Third Schedule—

(i) in regulation 6, for the word 'Superintendent' the words 'Superintendent of Insurance' be substituted;

(ii) in regulation 9, after the words 'Where an insurer carries on' the word 'the' be inserted."

"That in Part II of the Third Schedule—

(iv) in the second footnote to Form DDDD, the word 'the', where it last occurs, be omitted."

Question put and amendment adopted.

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

"That to Form D of Part II of the Third Schedule the following footnote be added:

"(f) In the case of an insurer having his principal place of business outside British India the expenses of management for business out of India and total business need not be split up into the several sub-heads, if they are not so split up in his own country."

Sir, I draw attention to the fact that in the printed form the words are "outside British India". I have altered this to "out of India" as it is in consonance with the other amendments.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I have only one word to say about this. I have accepted its principle. I only want to inform the House that this was agreed to by all the parties as the proceedings of the Assembly will show. It was through inadvertence not moved by Mr. Satyamurti; we tried it later but it was shut out. I only want to inform the House that this was an agreed matter in the lower House.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Third Schedule, as amended, stand part of the Bill."

The Motion was adopted.

The Third Schedule, as amended, was added to the Bill.

Fourth Schedule.

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

"That in the Fourth Schedule, Part I, in regulation 3 (2) (b), for the word and figure 'paragraph 5' the word and figure 'paragraph 4' be substituted."

This corrects, Sir, a clerical error.

Question put and amendment adopted.

THE HONOURABLE MR. R. H. PARKER: Sir, with your permission, I will move:

"That in Form G in the Fourth Schedule, the word 'British' where it occurs in two places at the head of columns be omitted."

Sir, the reason for this is that it is a pure error, Form D has the words "Business within India" and Form G has "Business within British India". The one applies to five years and the other to one year, and they ought to have the same heading.

Question put and amendment adopted.

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

"That to Form G of Part II of the Fourth Schedule the following footnote be added, namely:

"(d) In the case of an insurer having his principal place of business outside British India the expenses of management for the total business need not be split up into the several sub-heads, if they are not so split up in his own country."

[Mr. R. H. Parker.]

Sir, I understand that the experts consider that this is necessary and that it is acceptable.

.Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Fourth Schedule, as amended, stand part of the Bill."

The Motion was adopted.

The Fourth Schedule, as amended, was added to the Bill.

The Fifth and Sixth Schedules were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE THE PRESIDENT: The third reading of the Bill will be taken up tomorrow.

The Council then adjourned till Eleven of the Clock on Thursday, the 25th November, 1937.
