

Thursday, 25th November, 1937

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1937

(13th September to 25th November, 1937)

SECOND SESSION
OF THE
FOURTH COUNCIL OF STATE, 1937



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COUNCIL OF STATE.

Thursday, 25th 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.

SHORT NOTICE QUESTION AND ANSWER.

CEYLON VILLAGE COMMUNITIES (AMENDMENT) BILL.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: (a) Has the attention of Government been drawn to the reported amendment with regard to the question of franchise, of the Village Committee Ordinance by the Standing Committee of the Ceylon State Council?

(b) Are Government aware that this amendment will come up before the Ceylon State Council on the 30th instant and that the Indian Community in Ceylon are not satisfied with it?

(c) What action do Government propose to take in the matter?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) Yes.

(b) Government have seen reports to this effect.

(c) The matter is under correspondence with the Government of Ceylon.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Will Government take account of the views and sentiments of Indians in Ceylon in arriving at a decision on this question?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Government will certainly give full consideration to the views of Indians here and in Ceylon in dealing with this question.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: May we take it, Sir, that pending the settlement of this matter, the passports of labourers emigrating to Ceylon will not be endorsed?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: It is not the intention of the Government to agree to the re-opening of such emigration until the franchise question is settled to their satisfaction.

MOTION FOR ADJOURNMENT *RE* APPOINTMENT OF MR. SALT AS ENTOMOLOGIST TO THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

THE HONOURABLE THE PRESIDENT: I have just this minute before the question was put received notice of an Adjournment Motion from the Honourable Mr. Sapru. It runs:

"Sir, I beg to give notice that I shall move today the adjournment of the House to discuss a matter of urgent public importance, namely, the appointment of Mr. Salt as Entomologist to the Council of Agricultural Research."

When was this appointment made?

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, I read about it only at 9 A.M. in the papers when the *Hindustan Times* and the *Statesman* reached me.

THE HONOURABLE THE PRESIDENT: Are you quite sure of your information?

THE HONOURABLE MR. P. N. SAPRU: Sir, I read about it only in the papers, and it is for the Honourable the Leader of the House to say whether the information is correct or not.

THE HONOURABLE THE PRESIDENT: I must point out to Honourable Members that obtaining information from newspapers is not always reliable; unless there is a Government notification about any appointment or some such thing, newspaper reports cannot always be relied upon. I fear, I should be setting a very dangerous precedent if I were to allow an Adjournment Motion moved on the basis of some newspaper report.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sir, I received notice of this Adjournment Motion exactly at 11 A.M. I myself do not know anything about this appointment. I do not know whether the appointment has or has not been made. In fact, I had not even five minutes to examine the question. I have not seen anything about this anywhere, and I really cannot say whether such an appointment has or has not been made.

THE HONOURABLE MR. P. N. SAPRU: Will the Honourable Member please enquire and tell us whether the report which has appeared in the newspapers is correct or not?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I think the Council is adjourning today, but I shall find out before we meet in the afternoon whether any appointment like this has or has not been made. I will try to find out if my Department has any information.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): May I know, Sir, if the Government of India was consulted in this matter?

THE HONOURABLE THE PRESIDENT: The Honourable Member in charge says he does not know anything about this. Under the circumstances, if the Honourable Mr. Sapru admits that his information is obtained from newspapers, and the Honourable the Leader of the House says he knows nothing about this appointment, I must hold that this Motion is not in order and it cannot be allowed.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Will you permit me to make an observation, Sir? It is generally through newspapers we get our information. Take for instance the Colonies where Indians are settled. It is only through newspapers that we can obtain information as to what is happening there, and if we are debarred from proceeding on the basis of

the information published in newspapers and moving an Adjournment Motion, I am afraid we shall never be in a position to do so. By the time Government give us authoritative information the thing may be finished, and an Adjournment Motion may be out of order. If, therefore, we are at all to make use of our rights in the matter of moving Adjournment Motions, we must proceed on the basis of reports published in newspapers. It is, however, open to Government to deny the accuracy of those reports, and if the accuracy is denied, naturally the Motion for Adjournment will fall through.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhamadan): May I also submit, Sir, that you may be pleased not to treat your ruling on this Adjournment Motion as a precedent?

THE HONOURABLE THE PRESIDENT: I am afraid the Honourable Pandit has not comprehended what I have said. I did not say that I would disallow any Adjournment Motion made only on the basis of newspaper reports. I said there were other circumstances in the matter. The Honourable the Leader of the House says he knows nothing about this appointment. He says he does not know whether any such appointment has or has not been made. Now, the Council is going to sit till about 4 P.M., and there is hardly enough time for him to make enquiries, and even if he gets reliable information on the subject, it would be too late in any case. Of course, if the Council is sitting tomorrow morning, you may raise this question again.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Is it impossible for the Honourable Member to get the information by 3 P.M. or 4 P.M.? This is a matter of great importance, and today is the last day of the session.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sir, I agree it is a matter of importance, but my Honourable friend will realize my position. I have already said that I know nothing about this appointment. I only heard of it exactly at 11 A.M. when I was shown this Motion, and I said I would try and get the information. Therefore, I am not in a position either to confirm or to deny what has appeared in the press. I have not even seen this statement in the press. I came to know of it exactly at 11 A.M. when my friend the Honourable Mr. Sapru handed over to me the Adjournment Motion. I have really no information in my possession which I can communicate to the House. I have already said I shall try my best to find out whether such an appointment has or has not been made. I am afraid at this moment I am entirely in the dark.

THE HONOURABLE MR. HOSSAIN IMAM: Will the Honourable Member be pleased to make a statement today about this appointment after he has examined the matter?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: If there is anything more to be said, I will.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir, may we keep this matter in abeyance till we meet after the luncheon hour?

THE HONOURABLE THE PRESIDENT: I am afraid I have no power to do that. If you read the Standing Orders, you will see that when an Adjournment Motion is moved, I must give my decision.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, are we to understand from the observations of the Honourable the Leader of the House that the Government of India was not consulted in the matter?

THE HONOURABLE THE PRESIDENT: Apparently not; he says he does not know anything about this appointment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Knowing is another matter. I want to know if the Government had been consulted at all in this matter?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: If it had been consulted, Sir, I would certainly have known about it. I said I know nothing about this, and still my friend asks me if I was consulted!

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE MR. J. A. THORNE (Government of India: Nominated Official): Sir, I lay on the table the information promised in reply to question No. 306 asked by the Honourable Mr. Hossain Imam on the 15th November, 1937 and question No. 350 asked by the Honourable Raja Yuveraj Datta Singh on the 19th November, 1937.

RESHUFFLING OF CERTAIN DEPARTMENTS AND PORTFOLIOS.

306. The Honourable Mr. A. G. Clow, C.S.I., C.I.E., I.C.S., is Secretary in the Department of Labour and Mr. S. N. Roy, C.I.E., I.C.S., is Secretary in the Department of Communications.

POLICE SEARCH OF CERTAIN PLACES IN AJMER.

350. Yes, the following places in Ajmer-Merwara were searched :

- (1) Office of the Provincial Congress Committee, Ajmer.
- (2) House and premises occupied by Mr. Gokal Lal Asawa, President, Provincial Congress Committee, Ajmer.
- (3) House and premises occupied by Mr. Bal Kishan Garg, Secretary, Provincial Congress Committee, Ajmer.
- (4) Office of the Beawar Town Congress Committee, Beawar.
- (5) House and premises of Ram Niwas Sharma, Secretary, Beawar Town Congress Committee, Beawar.
- (6) House and premises of Sehas Mal Bohra, President of the Beawar Town Congress Committee, Beawar.
- (7) House and premises of Jai Narain Vyas, Convener, Ajmer-Merwara Anti-Separation Committee, Beawar.
- (8) Office of the Congress Labour Sub-Committee, Beawar.

The searches were in connection with the loss of certain confidential documents belonging to the Jodhpur Government and believed to have been removed without authority.

INSURANCE BILL—*contd.*

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

“That the Bill to consolidate and amend the law relating to the business of insurance, as passed by the Legislative Assembly and as amended by the Council of State, be passed.”

Sir, I do not propose to make a long speech. I think it is my duty to acknowledge gratefully the kindness shown and the help rendered by the Chair and by the House. It was extremely kind of you, Sir, to take notice of the fact that during the opening days of the proceedings I was not in very good health and to accommodate me you made concessions which made it possible for me to go on with it to the end. I also thank the House for their co-operation in improving the Bill, and whatever our differences of opinion may be, so far as I am concerned, I do not ascribe any motive to any person in the Opposition that he was actuated by either obstinacy or unreasonableness. We are bound to differ on questions of this kind. I only hope that the same charity may be extended to us on these Benches.

It was said by my Honourable friend Mr. Hossain Imam that this House was wanted only for dotting the i's and crossing the t's. That is one of the very many incorrect and unjustified statements which he has made. It is not possible to deal with all of them; I made my protest in good time. Let us see what this House has done, then we can possibly get a definition of what is meant by dotting the i's and crossing the t's.

I do not propose to refer to the amendments which have been carried, which are merely formal amendments for clearing the language; I do not refer to them at all. Nor do I intend to give an exhaustive summary of the changes where I can say that there has been some slight change in substance. But let me try to give, here also, without trying to be exhaustive, a summary of the important changes which have been made, leaving the matter of the dotting of the i's and the crossing of the t's to be adjudged upon afterwards. I draw the attention of the House *seriatim* to some of these matters. First of all, in clause 2(8)(b), the words “incorporated under the Indian Companies Act, 1913”, have been changed by this House to “incorporated under any law for the time being in force in British India”. As a result of that, who are coming within the scope of this Act it will be for Honourable Members to consider, but it is not a formal matter, it is a point of substance. Then the change in clause 3 (2) (*ee*) has removed the difficulty which would have been felt if that section had been made applicable to general insurance like fire or motor. That, again, is not a formal amendment. Also this House has removed a difficulty of the insurers by adding standard forms in that sub-section. In clause 3A there was an obvious defect where we mentioned Rs. 500. An amendment was moved in this House by some Honourable Member opposite which was accepted, and the words “exclusive of profit or bonus” were added. Then another important change was made in connection with 3A when an amendment was moved, which again was accepted, with reference to group policies. As regards clause 6, it was no doubt

[Sir Nripendra Sircar.]

merely clearing up the language, but the Honourable Mr. Motilal's amendment does not only now make it clear but removes a difficulty from the construction and operation of that clause. In the same clause there was a power given to the Reserve Bank to make certain requisitions. Those have been taken away and the matter has been left to the insurer. In clause 9 (3) there was an inconsistency with clause 43 about the declaration of dividends. That has been removed by an amendment moved in this House. Then, I need not refer *seriatim* in detail to four or five clauses in which the word "British" has been removed from the expression "British India", which makes a considerable change in substance. For instance, unless this had been done and the amendment accepted, the result would have been that, while, I representing an insurance company could not offer any rebate throughout British India, I could do that in the neighbouring Indian States to men to take out policies. Then there has been a change in substance in clause 27 relating to the remuneration of managing agents. While the total limit of Rs. 2,000 has not been changed, yet the sub-divisions have disappeared with the result that Rs. 2,000 may be received although that represents only commission or only salary. The House will further remember that the provisions or rather the restrictions as regards the appointment and remuneration of managing agents have been now extended by an amendment moved in this House to provident societies. That was not in the original Bill. A remarkable change, and a change for the better, has been introduced in clause 33 by enacting that the priorities of assignments will rank in order in sequence of the dates of notice given. It makes a very substantial change and gets rid of—at least we hope so—a confusion which might have resulted without this amendment and which might have put people who honestly advanced money on policies in a difficulty. I need not remind the House about clause 35 which has been widened by using the expression "person" covering payments by anybody to insurance agents. That was not in the Bill as it was drafted. Many loopholes would have arisen but they have been closed now. In the matter of giving rebate, I wonder if those who talk of dotting the i's and crossing the t's realize that a great change has been made and that for the better. That change is this. After the amendment that has been passed the result is that rebate cannot be paid by anybody and not merely by the class which was mentioned in the Bill as drafted. A similar line of treatment has been accorded to clause 38 and the prevention of employment of unlicensed insurance agents for transacting business has again been extended by this House to everybody, and I need not refer to clause 38A in any detail because that has been treated on the same lines. The House also remembers no doubt the reduction of maxima to 40 per cent. and 15 per cent. Then a considerable change, and again I say, a change for the better, has been made by the amendment of clause 102C. The result of the amendment which has been carried in this House is to extend the exemption of funds to which the Provident Funds Act of 1925 applies, to funds in existence concerning Government servants and pensioners officially recognized by Government and to provident societies composed of Government servants and of railway servants under certain conditions.

On the question of the definition of the dividing principle, Honourable Members will realize that there was a loose end, because we had already

fixed one end and not the other. Now, the improved definition which has been accepted here removes that defect. Then, Sir, as regards clause 51, with a view to help the amalgamation of companies—and it is expected by everybody that many of the smaller companies will have to amalgamate pretty soon after the Act comes into operation, we have amended the provision by introducing the words ‘cash distribution’. In clause 56, there has been considerable change not by reason of the amendment which we had given notice of and which was not moved but by reason of Mr. Ramadas Pantulu’s amendment which by subsequent agreement we accepted. I refer to the approval of the Central Government so that we might ensure some degree of uniformity in the rules which are going to be framed and the objects to which the provident fund societies might be extended. Then, Sir, with regard to co-operative societies a number of changes have been introduced. I have no desire to tire the House by taking up the sections one by one and we have also effected an agreed change in the Third Schedule, Part I. As I said, I do not want to make the list exhaustive but this will show Honourable Members how many i’s we have dotted and how many t’s we have cut.

The only other point which I wish to touch upon very briefly is the question of the chief agents and young life associations. I have no desire to repeat my arguments, because we have failed to convince each other. Let us agree to differ, but there is a certain statement of fact which I contradicted yesterday, and I have now come armed with authorities for that contradiction. Though it was not said, yet the impression was given that young life insurance companies desire that there should be a limitation of commission so far as the chief agents are concerned. I now read from the comments and criticisms which were sent officially by the young Life Offices Legislation Committee to the Government. I am not relying on any stray conversation which somebody may have indulged in, before the matter came up before the Council of State. This is what they say :

“Sub-clause 2 of clause 33”—Honourable Members will remember that 35 was at that time 33—“My Committee are opposed to the provision in the Bill for the limitation of the rates of agency commission. My Committee are not aware of the existence of such a provision in the insurance law of any other country”.

They were objecting—and in fact they persisted in that and they are doing it even today, because Honourable Members will, I am sure, have been inflicted by telegrams while this matter was being discussed here, objecting strongly to any limitation of chief agents’ commission. May I read it again :

“My Committee are opposed to the provision in the Bill for the limitation of the rates of agency commission. My Committee are not aware of the existence of such a provision in the insurance law of any other country. They think that statutory limitations of this nature cannot but be arbitrary.

“How much a company can or should spend in agency commission depends on what provision has been made as regards premium rates”.

That was the attitude which they have throughout maintained. I am not going into the rights or wrongs of this argument. It may be right or it may be wrong but I am only stating a fact. The House will remember that I put a question to my friend Mr. Mahapatra. I find he

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is not here. I asked, "What will satisfy the young life association"? He gave no answer but I can provide him with an answer. First of all they do not want that any maximum rates of commission should be fixed. There should be no limitation of commission either for the insurance agent or for the chief agent or anybody. You can pay as much as you like. It does not matter if your life fund is a negative quantity. The second was that we should not interfere with the payment of rebate. The third is that there should be no licensing and the fourth no provision for investments. If you want investments, then they said it should not be 50 per cent. but 25 per cent. in either municipal or Port Trust debentures, etc., etc. That has been their attitude. In fact they said—"Nothing doing"—no prevention of rebate, no limitation of commission, no licensing and no requisition for keeping any assets for the policy-holder and when I said that I have gone the farthest limit I could for helping the young companies, I ought to have added that it is not possible to make them happy unless we agree to absolutely ruin the insurance business in India.

Then, Sir, there is one point more and I have done. The "young life" and I think the comparatively old life of Mr. Parker—they all protest against interference with the sanctity of contract. They say: "Why should you in insurance business fix rates of commission and prevent rebate", and so on. As an abstract proposition that is quite correct and I should only be too happy if Indian insurance companies could contrive among themselves to place their business on sound business lines; but the argument against what we have done in this Bill has been met by others and in this connection may I read from the proceedings of the Indian Insurance Legislation Committee of Bombay. It would be pertinent to quote the opinion—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern Non-Muhammadan): On a point of order, Sir Is the Honourable Member in order in reading that?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Why not? This is a statement made by the President of the Indian Merchants' Chamber and it is a book which has been distributed to every Member.

THE HONOURABLE THE PRESIDENT: He is not reading from any newspaper.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: On a point of order, Sir. We are asked not to quote even from the proceedings of the Legislative Assembly. Is the Honourable Member then entitled to quote from a book which is not recognized by Government at all? It is not an official publication.

THE HONOURABLE THE PRESIDENT: An Honourable Member is certainly entitled to quote from the proceedings of the Legislative Assembly. My ruling is, and has been in the past, in conformity with the rulings of my predecessors that you cannot quote in the same session the debate in the other House. So far as the present occasion is concerned, the Law Member is fully entitled to quote from that book or any reference book, as Honourable Members in the past have frequently done.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir, I wanted to quote from the proceedings of the last session of the Assembly which ended in October last but you ruled that I could not quote from it.

THE HONOURABLE THE PRESIDENT: This session is a continuation of the October session and it is not a new session.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: This session is a continuation of the last session of the Council of State but the Assembly session ended in October last and I wanted to quote from the proceedings of the Assembly.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Your ruling has been given, Sir. I believe the next time I try to quote from Shakespeare, he will object on the ground that Shakespeare is not a Member of this Council! If I may read again, Sir:

"My Committee welcome and support the principle of limiting the scales of commission both in life and general insurance business. In the interests of the policyholders and of insurance business, it is necessary that the middlemen's profit should be limited to a minimum. My Committee have heard it suggested that such a fixation of rates of commission by statute would be interference in the internal working of companies transacting insurance business. They cannot subscribe to this view. The evidence of unhealthy and unbridled competition leading to uneconomic rates of commission confirms their opinion that both in national interests and in the interests of companies doing insurance business the State should step in and prevent such a race for procuring business. The criticism that such a regulation is an avoidable interference in the day to day management of the affairs of insurance companies will not cut ice. There are various instances in which the State has enacted laws regulating the internal affairs of a business. The United States of America present the extreme example of active interference by the various Codes and Regulations laid down for the conduct of business in that country. Nearer home, in regard to rubber and tea by the restriction schemes, the Government of India wish to ensure the progress of these industries. Not long ago, similar requisitions for schemes of restriction in regard to coal and jute were also placed before Government. Such critics cannot also be unaware of the fact that in the case of the sugar industry in order to protect the interests of the cultivator, the State has prescribed the minimum prices payable to suppliers of sugarcane. If such prices had been left to be fixed by the free-play of the factors of supply and demand, it was feared that the grower of the cane would not have secured an adequate return for his labour. The present Bill itself seeks to regulate the business of insurance in so many directions, and there is no reason why such a regulation should not extend to the procedure and expenses in regard to securing insurance business. My Committee are convinced that voluntary action by insurers limiting the scales of commission would not be practicable or possible in the existing state of affairs, and they therefore strongly support the proposal to make suitable provisions towards this end in the statute itself".

THE HONOURABLE MR. HOSSAIN IMAM: May I ask the Honourable Member to give us the reference to page and the name of this book?

THE HONOURABLE SIR NRIPENDRA SIRCAR: I can lend you the book.

THE HONOURABLE MR. HOSSAIN IMAM: We have got the book.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Very well. The page of this might-have-been-forbidden book is 33.

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

"That the portion of clause 3A ending with the words 'of any amount' be re-numbered as sub-clause (1) of clause 3A; and that for the words 'Provided however that nothing contained in the section' the words 'Nothing contained in this section' be substituted and the proviso as so amended be numbered as sub-section (2); and that the proviso following thereon be omitted."

[Mr. J. Bartley.]

This, Sir, is a purely formal amendment intended to rectify a small error which crept into the Bill owing to the fact that the Honourable Mr. Ramadas Pantulu in moving an amendment of his which was accepted by the House, added a proviso under the impression that he was thereby fulfilling a pledge to the Honourable Sir Phiroze Sethna, and we only discovered subsequently that the proviso which the Honourable Mr. Ramadas Pantulu added was already contained in the clause. The effect of my amendment will be to convert the Honourable Mr. Ramadas Pantulu's first proviso into a sub-section, in which form it will be more apposite, as the main section already contains one proviso, and to omit the second proviso which was inserted by a mistake and which merely duplicates the proviso already appearing in sub-section (I).

Question put and amendment adopted.

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

"That the clauses and sub-clauses of the Bill be re-numbered as necessitated by the amendments made in this House, and that all references to the numbering of the clauses be corrected as required by such re-numbering."

Question put and amendment adopted.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muhamadan): Sir, I rise to give my hearty support to the Motion made by the Honourable the Law Member that this Bill, as amended by the Council of State, be passed. Sir, I feel that this Chamber may take legitimate pride on having successfully discharged its functions as a revising Chamber. Without touching the framework of the Bill and the principles underlying its main provisions we have made substantial modifications in numerous clauses. Even if most of the work we have done in the last two weeks consisted merely in dotting the i's and crossing the t's and improving the language, I feel that that work is by no means to be deprecated. Belonging as I do to the legal profession, I can speak from personal knowledge that careless drafting has often led to conflict of judicial opinion and necessitated numerous references to Full Benches of the High Court to the cost of the litigants. So, any neglect on our part and overlooking the need to make verbal changes will be a serious matter for the people whose rights and liabilities are governed by Acts which are passed by this Chamber. Therefore, I think that to minimize the value of the work done in the last two weeks is not a correct attitude to take. Sir, the revising Chamber has often only to give finishing touches to a piece of legislation. An artist or a craftsman often attaches more importance to the last finishing strokes he gives to his work of art or his handicraft and takes immense pleasure in watching how the final light touches give perfection to his work and enhance its beauty. That is the feeling which I have of the work we have done in connection with this Bill in this House.

As the Honourable the Law Member has lucidly enumerated the important changes we have made in this Bill, the charge that we have merely attended to verbal improvement cannot be sustained. I do not wish to travel over the same ground that he has covered; but I shall try to mention a few other important changes which we have made.

Sir, take clause 3 (3). First of all we tried to amend that sub-clause, as passed by the Legislative Assembly, so as to restrict the application of the power of retaliation to those countries which by their laws relating to insurance have imposed disabilities upon Indian insurance business. But subsequently, due to the sympathetic and patriotic attitude taken by the Honourable the Law Member, we have re-modified it by enlarging the scope of the Government's power to put that retaliation clause into operation when need arises. The words "relating to" are supplemented by the addition of the words "or applied to". I consider this amendment a very important one. A piece of legislation in a foreign country, not directly relating to the law of insurance, may nevertheless be so applied as to prohibit Indian business of insurance in that country. A general law which prohibits Indians from embarking on commercial undertakings may be applied to insurance business, and that will bring that country directly within the operative portion of this sub-clause (3) of clause 3. The Government of India's powers are much larger under the sub-section as re-amended at the instance of the Honourable the Law Member himself. I am glad that he realized the strength of the opposition in this House in that matter. I think that was the only serious division challenged on this Bill. The Government at first won only by 28 to 20 votes and that is sufficient evidence that in a House like this the opposition is practically unanimous. Therefore the reconsideration of the matter by the Honourable the Law Member is a matter for gratification to this side of the House.

As regards clause 3A, the Law Member has already referred to the minor changes made which improved the wording and defined its real scope. I may also mention that a substantial change made in clause 3A, is the latitude given to Mutual Companies and Insurance Societies to write business of Rs. 500 and under on their books. These mutual and co-operative societies work among a class of people of limited means and a fairly large part of their business is small business. The provident societies alone are unable to cover this field. Therefore this concession now made to them by this House by amending clause 3A is a very substantial change and benefits a large number of people who cannot be served by provident societies at any time adequately.

Sir, while I recognize that in clauses 35, 36, 37 and 38 we have not made any radical changes, the amendments we have made are still of a far-reaching character. The limit of commission payable to insurance agents in life business has been reduced from 45 per cent. to 40 per cent. and in the case of general insurance from 30 per cent. to 15 per cent. This is an important amendment and I think the reduction of commission from 30 per cent. to 15 per cent. in the case of general insurance will help new Indian insurance companies developing general business better in the future. While making these changes, the limit of 55 per cent. allowed to young life office has been retained. It is a very helpful attitude. I must, however, express my regret and I believe Members on this side will concur with me in that regret, that the Honourable the Law Member could not see his way to put some limitation on the commissions payable to the chief agents. I listened very carefully to his speech and to the extracts which he quoted from some memorandum prepared by the Insurance Legislation Committee. But there are very many conflicting interests in the insurance business and the view put forward by one interest is not necessarily acceptable to all other interests. We on this

[Mr. Ramadas Pantulu.]

side of the House do not represent any particular interest, but we want to make this legislation acceptable to the public at large and also to harmonize, as far as possible, the conflicting interests of the various agencies employed in the insurance business. I think this side of the House feels that the Honourable the Law Member might have seen the force of our contention that unless some limitation is placed upon the commissions payable to chief agents, both in regard to first year premiums and renewal premiums, many of the beneficent provisions of this Bill, which aim at limiting the expense ratio of the insurance business, will be eventually frustrated. That is our strong feeling, and it is a matter for sincere regret for this side of the House that our view-point was not appreciated by the Honourable the Law Member.

Sir, another amendment we have made is in clause 39 at the instance of my Honourable friend Mr. Parker. The Bill for the first time limits the right of insurance companies to question a policy because of mis-statements in the proposal or to invalidate it, unless it is done within two years of its issue. As the original clause stood we could have done very little in regard to any business we had done before the Act. Practically it shut out our right in regard to past business. We had no warning of this coming change in the law, and therefore we might probably not have been so careful in the past as we shall have to be in the future. The change now made in clause 39 will give us two years in regard to policies effected after the Act comes into force, but will not touch our right to question policies effected before the Act. This is a substantial amendment and I consider that the thanks of the insurers are due to my Honourable friend Mr. Parker for the very good amendment he had tabled.

With regard to clause 42, we have not touched it as our attempts to amend it failed. I still feel that something could have been done to improve the position the policy-holders on the boards of directors of their insurance companies. They have been given the right to elect one-fourth of the directorate. When the Honourable the Law Member said that we were aiming at progressive realization of the policy-holders' rights, just as we had been aiming at progressive realization of responsible government in this country, I thought that we might reconcile ourselves to his not agreeing to raise the proportion from one-fourth to one-third. But a subsequent amendment that was moved by me sought to preclude shareholders from seeking election as policy-holders. Sir, the danger is this. A shareholder seeking election to the directorate generally holds a very large number of shares, because the qualification of a director depends on the number of shares they hold. He is therefore able to command a large number of votes, and there is the system of voting by proxies and he can also generally command a number of proxies. Therefore the people who seek election to the directorate among the shareholders are the influential shareholders who own a very large number of shares; and that is the class of persons that we wanted to prevent from seeking election both as shareholders and policy-holders. I feel that in practice the concession that is given to the policy-holders to elect one-fourth of the number of directors will be seriously curtailed by influential shareholders, making a serious inroad on the privilege of the policy-holders. I shall not be surprised if, even after the passing of this Act, in some insurance com-

panies the entire board consists of shareholders, some of whom also hold policies. My point is that there is a real conflict between a shareholder and the policy-holder in theory as well as in practice. A shareholder looks to the dividend, the policy-holder to the bonus. The larger the dividend the smaller the bonus; the larger the bonus the smaller the dividend. Therefore there is a real conflict, and it is a matter for regret that the Honourable the Law Member has not given more serious consideration to our very modest request that in this one-fourth allotted to policy-holders, shareholders, though they may have a policy, should not be allowed to step in.

Sir, we have also made a substantial change in clause 43A. As it originally stood it was made obligatory on an insurer to give a notice of various things which an insured had to do to get his policy made into a paid up one or to acquire surrender value, even if he made one monthly payment only and allowed the policy to lapse. It was a very ill-conceived clause and I am glad the Honourable the Law Member himself amended it so as merely to oblige the insurer to notify to the insured the various options that exist in the Act to one who allows his policy to lapse. A standard printed notice will serve the purpose. That is a very substantial improvement.

We have also made amendments to provisions relating to provident societies, which are governed by Part III. The Bill for the first time makes vital changes in the status and functions of these provident companies. Many of them were a source of danger. I am familiar with the working of some provident societies and these societies badly exploited their members, who in my opinion are their victims. Now, under this Act, they must make an initial deposit of Rs. 5,000 and ultimately deposit Rs. 50,000, and must also find Rs. 5,000 as working capital. These provisions will prevent mushroom provident companies springing up and exploiting their members. We have also suitably amended the clauses relating to the business which they can do. A very useful amendment moved by my Honourable friend Mr. Reid Kay, with regard to the dividing plan, has considerably improved the old provision of the Bill in this respect.

Sir, the Honourable the Law Member has referred to the fact that by an amendment which we have made the provisions of section 27 dealing with managing agency have been applied to provident societies. So far it is a good amendment. But my regret is that in regard to provident societies also these managing agents have been allowed to draw a remuneration upto Rs. 2,000 a month for the next three years. These are very small concerns and a monthly remuneration of Rs. 2,000 which they may be getting by virtue of section 27 being made applicable to them is in excess of what is required to meet their case. I wish that amendment had also attempted to bring down the remuneration payable to managing agents of provident societies to a figure much less than that allowed in the case of large insurance companies.

Sir, Part IV deals with mutual and co-operative insurance societies, with which I am more intimately connected. I express the gratitude of the co-operators of this country to the Government and the Law Member for having accepted my amendments in regard to them. Some Honourable Members may not know that we co-operators in India today number about 15 millions. We are not a small body. Again co-operative insurance

[Mr. Ramadas Pantulu.]

is gaining ground in this country. Our aim is to see that all capitalist concerns become co-operative at least in spirit though not in the letter of their constitution. Largely they are tending in that direction to the extent that principal mutuality is fostered, policy-holders rights are made supreme, dividends are cut down and bonuses are increased. The principles of co-operation are increasingly put into operation in most commercial insurance companies in practice. But our aim is to see that all capitalist concerns are actually replaced by co-operative concerns in the near future. (*An Honourable Member*: "Question?") There is no question about it. Capitalism must go and will go. The provisions of this Bill empowering co-operative life insurance societies to be registered under favourable conditions will I am sure lay the foundations of the development of co-operative insurance in this country in a large measure. Sir, co-operative insurance plays a very large part in the insurance schemes of other countries. I have myself seen the co-operative insurance societies at work in England, Belgium, and a few other countries, and I must say that they have introduced a new spirit into the insurance life in those countries. I will, with your permission, Sir, quote a small passage from a standard author on co-operative insurance, Mr. Barou, who is familiar with co-operative insurance business in many countries in the world. At page 365 of his book *Co-operative Insurance* he says:

"The co-operative method possesses certain characteristics which diminish and partly eliminate the difficulties encountered by profit-making insurance when applied to popular insurance. Co-operative insurance societies, if they are built on local federated co-operative units (village or factory societies), have the great advantage of decreasing moral hazards and costs. Co-operative insurance diminishes considerably the risks covered, reduces the cost of operations, decreases considerably the number of lapses, offers the policy-holder fair treatment, reduces exploitation, increases safety and raises the moral standard of its members by developing the co-operative spirit, the sense of responsibility, and the habit of mutual aid and organisation".

He adds further on:

"It is no exaggeration to say that the existence of co-operative insurance has considerably improved insurance conditions in general. Even in the highest stages of civilisation, the competition of some mutual insurance companies is desirable to protect the insured from too high a rate of profit to the insurers".

These passages are enough to show that co-operative insurance is making headway in other countries. It will in this country too, and my hope is that it will ultimately replace capitalist ventures in that field. I therefore feel particularly grateful to the Honourable the Law Member for having given us a chance of expanding co-operative insurance and creating facilities for making it a success in this country.

Sir, with regard to clause 102C, to which the Honourable the Law Member has already referred, we have made substantial changes in it. That clause has in it the rudiments of the large reform of nationalization of insurance business. There is an element of recognition of nationalization of insurance in that clause. State insurance is exempted from the operation of this Act. Now State insurance is practically confined to its own servants. But we have enlarged the class of people who may be brought under it. But, Sir, I feel that in the commercial insurance field the State ought not to intervene except to a limited extent as it now does and the State should intervene only in the sphere of social insurance

against unemployment, sickness, old-age, industrial accidents, and the like. The State should have nothing to do with ordinary commercial insurance. Co-operation should step in. That is what I feel.

There is only one other observation I have to make. In order to reap the full benefits of this Bill the Indian States must fall into line with our legislation. Otherwise I find that there is a great deal of scope for conflict between the Indian States and the British Indian Provinces. Ventures started here are also working in the Indian States. Unless the Indian States also recognize the necessity of licensing the agents putting a limitation on their commission and penalizing unlicensed canvassing, many of the provisions of this Bill may be broken by British Indian companies operating in Indian States. Therefore I hope the Government of India will persuade the Indian States to come into line with our legislation as soon as possible.

Sir, I do not wish to take the time of this House any more. I must say that our thanks are due to the Honourable the Law Member and to Mr. Bartley, who were very accommodating to us. Whenever we felt a difficulty we approached either the Law Member or Mr. Bartley and they were ever ready to assist us with their expert advice. Mr. Bartley has ably taken the place of Mr. Susil Sen who assisted the Law Member in the other House. Finally, Sir, I wish to express our thanks to you for the very great indulgence you have given in regard to moving amendments. At times we were in a mess and a great deal of confusion resulted from the hurry with which we had to frame and notify our amendments; but you however overlooked the technicalities to the extent to which you are entitled under the powers vested in you and gave us reasonable facilities and thus helped us considerably. And without the help of yourself the Law Member and Mr. Bartley we could not have done as much justice as we did to this Bill. I hope the Legislative Assembly will appreciate the value of our amendments and of our work as a revising chamber and approve *in toto* the amendments made by this House.

With these words, Sir, I support the Motion.

THE HONOURABLE LIEUTENANT-COLONEL SIR SHAIKH HISSAM-UD-DIN BAHADUR (North-West Frontier Province: Nominated Non-Official):
 Mr. President, I wished to speak at the general discussion but unfortunately I could not catch the President's eye. The Bill with some modifications has almost passed, so I wish to express what I feel, which may be useful to the Honourable the Law Member

I come from a poverty-stricken part of India, where life is one long adventure against perils of nature and men. We of the Frontier have to develop thrift even in relatively prosperous times as an insurance against a bad day. This idea of insurance is, therefore, to us, one full of significance and practical importance. I believe in the value of insurance as it promotes the habit of thrift in the individual and serves him when he most requires help. But for this habit to become universal, the business of insurance should be conducted above-board and the confidence of the public in its soundness should be continuously maintained. So far as we laymen are concerned, we look into this Bill merely to see how far its provisions help to create and assure this public

[Sir Shaikh Hissam-ud-din Bahadur.]

confidence in the absolute rectitude of insurers. Speaking for myself, I think that the Bill has succeeded in this purpose remarkably well.

In the first place, the Bill insists that an insurer should have a working capital of at least Rs. 50,000 exclusive of deposits and other sums payable as preliminary expenses. Criticism was offered that this sum is so large that the Bill practically excludes from the field smaller ventures. I submit that the criticism does not take any account of the real character of the business of insurance. This is a kind of business whose security and soundness increases with the increase of its size and spread. The smaller the company, the greater the risk. Personally, I would favour a State monopoly of insurance, the profits being distributed to the policy-holders as bonuses or retained by the State to be added to its general revenues. If this is not possible today owing to the fact that different views are held as to the activities in which the State should engage itself, I would still urge that the State should not allow the business to be diffused among a large number of pigmy companies over whom control would be difficult and whose soundness it is impossible to guarantee. I should wish that individuals or mere partners were not allowed to carry on insurance business but that selected companies were given monopolies in the various provinces of British India. To encourage the so-called small companies would eventually result in undermining public confidence in insurance and that at any rate is a result which I dread very much.

Closely allied to this is the question of the amount of the deposits which insurers have to make before they engage in their business. The sums vary between Rs. 1½ lakhs to Rs. 4½ lakhs according as the form of the particular business is life, marine, accident or miscellaneous insurance or a combination of two or more of them. I think these figures are sufficiently low for a large number of insurers to spring up all over the country. If a company partnership or individual cannot find at least this amount for being deposited, they have no right to ask the public to do insurance business with them. And, as a compromise, the Bill has permitted this deposit being made in instalments over periods ranging from one to ten years, a very generous provision, I think. I have one observation to make in this matter and I would invite the Honourable the Law Member's kind consideration to it. The provision as it is in the Bill now, says that the deposits when not made in cash, may be in approved securities and these are to be valued at their market value on the day of the deposit. I believe that public confidence should be strengthened further if it were provided that deposits should be made only in cash. We are all aware that the market value of securities is apt to fluctuate and it is not right to import an element of gamble in the amount of the deposit. Nothing prevents an insurer from converting his securities in the open market on the day of the deposit and putting the cash into the Reserve Bank as required under the section. In a really first class company the proportion of this deposit to the total liability would be small and it is really not the amount of the deposit which gives the character and repute of dependability to the concern. The deposit is of real assistance only in the case of infants and adventurous

companies and until such time as the business of the company grows to larger dimensions. And it will be admitted that at this initial stage, the deposit should not vary in value, a result which would certainly follow if securities could be deposited in lieu of cash.

The provisions of the Bill relating to the accounts and books to be kept by the insurer and the returns and reports which he should submit, I feel sure, help to create that confidence which more than in any other branch of business, insurance so largely depends on. Most significant of all is the creation of the new office of the Superintendent of Insurance with adequate powers to control the insurers and compel their compliance with the law. I have great hopes of this officer and I think we shall eventually owe the stability and success of insurance in this country to his watchful alertness and zeal. I shall support in this House every effort to strengthen his hands because the stronger they are, the greater will be the protection to the policy-holder. I attach great importance to his power to order inspection of the business of the insurer on his own motion and at the desire of the policy-holders as laid down in the Bill. I am sure that in the initial stages of the working of this Act, free use of this provision will be made to weed out inefficient companies.

The next important set of provisions from the point of view of the confidence of the policy-holders relate to the insurance agent. This personage plays a useful but a definitely irritating part in the economy of modern life. Insurance salesmanship appears to me to be the most difficult of all, and the agents are the salesmen. We have in our country many superstitions which prevent the growth of the insurance habit and if the business has at all developed even to the extent it has now, much of the credit goes to the patient and persistent toil of the insurance agent, who unmindful of the rebuffs has steadily pushed on his propaganda. When I say this I am forgetting that many of the tribe have proved themselves unworthy of its ideals. It is therefore with great satisfaction that I find that this Bill gives their occupation the status of a profession with a register, license and minimum qualifications. The gain to the agent, the insurer and to the public will alike justify these provisions. And I am not ignoring another important consequence of this provision that it may in however a small measure help to relieve unemployment of the educated, if the right kind of qualification is laid down for the agent and if the status of an agent is made respectable and paying.

While on this subject, I would like to draw the attention of the Honourable the Law Member to what appears to me a hardship imposed by the proviso to section 38A of the Bill. That proviso lays down that an agent who directly or indirectly procures insurance business for any other insurer should not be entitled to receive renewal commission on premia of policies canvassed by him in a company which he has left. I think it would be fairer to provide that he should not engage in procuring the same form of insurance business as he did for the former firm. Otherwise a life insurance canvasser who leaves the company and joins a marine insurance would forfeit his right to renewal commissions although there can be no detriment to the life company by his doing work for the marine.

[Sir Shaikh Hissam-ud-din Bahadur.]

I now turn to another aspect of the Bill. I am glad to find that the managing agency system is not to be permitted in the field of insurance business. I am sure Honourable Members would agree with me that the business is well past the stage when it needed the fostering care of managing agents. Although I would like a more drastic provision which does away with the managing agents here and now, I am prepared to support what I have been assured is a fair compromise embodied in section 27 of the Bill.

As regards the investment of the assets of insurers, the safeguards contained in sections 26 to 26D appear to be reasonable. This, of course, is vital to the policy-holders. I notice, however, that there is still plenty of money left in the hands of the insurer, as much as 45 per cent. in the case of British India and United Kingdom insurers which they can play with. It is because of this idea that I always thought that the only insurer would be the State so that the assets of the insurance business may be placed in guaranteed investments and be always available for productive capital in State undertakings, while at the same time the policy-holders are safe. That not being so, I would suggest, as the next best arrangement, that the Superintendent of Insurance or some other impartial and responsible Government official should have the power to scrutinize individual investments even in the case of the 45 per cent. of the assets not required to be invested in Government or Government guaranteed securities under section 26.

These are some of the aspects of the Bill which struck me as deserving of consideration from a layman's point of view. To a very large extent the Bill carries out the essential condition of all legislation in this branch, namely, that the highest importance is attached to the interests of the policy-holders on whose confidence and for whose benefit primarily the entire structure of this business is built. The vast assets gathered by the insurers should be made available for constructive nation-building enterprises. Thus, from the point of view of the individual and of the nation as a whole, insurance is a vital institution which can be made to serve great and noble ends. I have already referred to my preference for a State monopoly of all forms of insurance and the next best thing is to have such large companies, not individuals or mere partnerships, as would ensure perfect stability and enduring strength, functioning under the close control of the State and whose resources would be available unreservedly for the common development of our economic life under the auspices of the State. But the present Bill is concerned with a smaller field and has a more limited purpose. Within the limits of that purpose, I have no hesitation in stating my humble view that the Bill has succeeded well. It is a remarkable piece of legislation embodying judicious compromises and principles of fair play and protection to the policy-holder. I hope that the insurance habit will spread among my countrymen in consequence of this measure and promote those qualities of thrift and care which are so necessary for the individual. I have much pleasure, Sir, in congratulating the Honourable the Law Member and his associates on having produced such a satisfactory measure. (Applause.)

STATEMENT RE MOTION FOR ADJOURNMENT RE APPOINTMENT
OF MR. SALT AS ENTOMOLOGIST TO THE IMPERIAL
COUNCIL OF AGRICULTURAL RESEARCH.

THE HONOURABLE THE PRESIDENT: I understand that the Honourable the Leader of the House is in possession of information relating to the Adjournment Motion that was pressed this morning, and in order to release the tension in this House I would ask him to intervene at this stage and make a statement.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, I take the earliest opportunity to make a statement in regard to the Adjournment Motion of which notice was given by my Honourable friend Mr. Sapru. I think I need not assure the House that I am not in the habit of withholding information in my possession which I can give usefully to the House. I may say that it was only because I had not had any notice at all and was not aware of what had happened that I had to explain to the House that I really could give them no information at that time. I now understand that no appointment is to be made by the Government of India, and that any appointment that may be made will be made by the Imperial Council of Agricultural Research from its research funds. I understand that certain proposals have been made by the Advisory Council but these proposals will have to go before the Governing Body of the Imperial Council of Agricultural Research which is going to meet on the 13th of December. I have not seen these proposals, but any such proposals will have to go before the Governing Body of the Imperial Council of Agricultural Research and the decision will be theirs.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): This means that the news about the appointment having been made is inaccurate?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: That is so; there is no doubt about that.

THE HONOURABLE THE PRESIDENT: You can now see that newspaper reports cannot always be depended upon.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): I do not claim that they are always to be depended upon but it is for Government to set us right. Sometimes they are very useful as being warnings of what is to come. (Laughter.)

INSURANCE^o BILL—concl'd.

THE HONOURABLE RAO BAHADUR K. GOVINDACHARI (Madras: Non-Muhammadan): Sir, I rise to support the Motion that the Bill, as passed by the Assembly and amended by this House, be passed.

The Bill constitutes a great advance over the existing law.

[Rao Bahadur K. Govindachari.]

Three main objects of the Bill are: (1) to give adequate protection to policy-holder; (2) to prevent the growth of mushroom companies without at the same time subjecting the young and sound companies to disabilities; and (3) to bring the foreign insurance companies within the scope of the Indian Insurance Bill without interfering with their existing privileges.

The Honourable the Law Member has given ample opportunities to the Members of this House to improve the Bill as it emerged from the Assembly and accepted such amendments as he considered reasonable. He also took a firm stand towards the managing agency system regarding which, though in the earlier stage it provoked opposition from some quarters, it is clear from the progress of the Bill in both the Houses that he has behind him a large volume of support from all sections. He has given the insurance company and the managing agents three years to adjust themselves to the new conditions arising from the Bill, and he also showed his anxiety to be fair by opposing amendments to further reduce the period or the remuneration allowed to managing agents in the Bill.

Another provision of the Bill in regard to which also he took a firm stand is the one relating to investments. The provision of the Bill requiring 55 per cent. of the liabilities of the insurance to be invested in Government and approved securities will strengthen the financial position of insurance companies and safeguards the interests of the policy-holders; moreover the proposal that 25 per cent. of this should be in Government securities, which applies to foreign companies also, will benefit the Central and Provincial Governments in strengthening the value of their securities.

The other important features of the Bill to which I would like to refer are the licensing of the agents, placing a limit on the commission to be paid to them and the prohibition of allowing rebates. The absence of these salutary provisions in the existing law has been one of the main drawbacks of insurance business in this country. The policy-holders being mostly ignorant people require protection. That no agent without a license could canvass business will check many of the present evils. The limit of 40 per cent. of the first year premium will also check unhealthy competition and will reduce the expense ratio for the benefit of policy-holders. The practice of allowing rebates give the bigger companies an unfair advantage over the smaller companies.

The creation of the post of the Superintendent of Insurance for the first time is a very desirable step. This new Act is of a highly technical and complicated nature and the success of its working largely depends upon the officer who will be required to enforce its provisions. It is satisfactory that the House has agreed to the suggestion of the Government that the Superintendent should be a qualified actuary. The nature of his duties requires him to sit in judgment over the highly technical production of actuaries of several companies. The best man available must be recruited irrespective of any racial and other consideration. If no qualified Indian is available at present the interest of the insurance companies require that one should be got out from abroad who should be made to train Indians to equip them to occupy the position in due course. The credit for placing the law of insurance in India on a sound and satisfactory basis undoubtedly goes to the Honourable the Law Member and to Mr. Susil Sen whose absence from the House owing to ill-health we all regret.

Sir, with these words I give my hearty support to the Motion.

THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR (West Bengal: Muhammadan): Mr. President, Sir, I desire to congratulate the Honourable the Law Member on the comprehensive and far-reaching measure which we are about to pass now. The thanks of this Honourable House and the public are due to him for the pains which he has taken over this measure. The Bill will place insurance on a healthy basis and in the years to come, the country will remember with gratitude the name of our respected Law Member as the father of this Bill.

Unanimity on all the clauses of a complicated measure like this was not possible and it may be that some of us would have liked the Bill to be different from what it is in some respects, I, for example, would have preferred a deposit split up into several yearly instalments, for new general insurance business. General insurance business is yet in its infancy and needs encouragement. In general insurance we have only 11 really Indian companies. In addition we have three companies which are only Indian in name. The number of foreign companies in this line is 139. It will be seen that general insurance business is in an undeveloped condition. It was for this reason that I was anxious to see that it was treated differently from life insurance. I am sorry that my point of view has not prevailed with the Law Member and the House.

But this, after all, is only a matter of detail which can be rectified, if necessary, in the light of experience in future. The Bill represents an achievement on which one may very reasonably congratulate the Law Member. I therefore heartily join in the general chorus of praise for the Honourable Sir Nripendra Sircar.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, this most comprehensive measure, which is the fruit of the efforts of the Honourable the Law Member, Mr. Sen and the Honourable Mr. Bartley, will soon be passed. I am sorry that in his speech the Honourable the Law Member has not said anything as to whether the Insurance Superintendent will be an Indian or not. It is a pity that our amendments on that point have fallen through. All the same, I hope that the Government will consider favourably the comments and the opinions that have been placed before it from this side of the House. I hope that the Insurance Superintendent, amongst his other duties, will see that the life insurance companies and the general insurance companies should be financially sound and their working should be properly watched by him. They should not spend more than what is prescribed and should not make inroads upon their reserve or capital. They should invest their funds in such a manner as not to jeopardise their safety and at the same time earn a fairly good rate of interest. They should pay their claims and meet their liabilities promptly. He should also see that the maximum time limit is not exceeded to make payment of claims. The Bill has generally provided for all this. There are provisions for deposits and the working capital to ensure the financial soundness of the companies. There is a provision for the limitation of the commission to the licensed agents and there is also a provision for the investment of reserves against liabilities. There are provisions for assignment of policies and their indisputability. I agree with the observation made by my Honourable friend Mr. Ramadas Pantulu that there should be a limitation to the commission given to agents and employees. I am

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sorry that my amendment as regards the eligibility, election or nomination of a certain class of persons to the boards of directors has not been accepted. I mean those persons who have been found guilty of embezzlement, misfeasance, cheating or other offences involving moral turpitude should not be made eligible to join the directorate. The reply which the Honourable the Law Member gave to me, when I moved my amendment, was most disappointing. It will mean that Government does encourage such persons being elected or nominated to the boards of insurance companies. The Honourable the Law Member also gave it as a reason that as such an amendment was not made in the case of the Companies Law, why should it now be added to the provisions of this Bill. It is admitted that a mistake or an omission of this provision was made in the Companies Act, there is no reason whatsoever why that mistake should not be rectified now. The attitude of the Government towards the non-acceptance of my amendment will indirectly mean that Government are out to encourage misfeasance, fraud and cheating. That will not safeguard the companies but the other way about. Sir, I also regret that the amendment as regards the investment of the funds in Government and approved securities has not been accepted, although a reduction of only five per cent. was asked for. For the information of the House I will lay a statement on the table of this House showing—

THE HONOURABLE THE PRESIDENT: Is there any precedent for such a request?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I have proposed that because I want to save the time of the Council, but in case you want me to read it, I will do so. The statement has been prepared for me and by laying it on the table of the House I would save the time of the Council.

THE HONOURABLE THE PRESIDENT: You can give it to the Secretary and if any Member wants to refer to it, he will do so. But it will not be published in the proceedings.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: As suggested by you, Sir, I will lay it on the table of the House, and repeat my request for its incorporation in the proceedings.

THE HONOURABLE THE PRESIDENT: Honourable Members who want to see it can do so.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: From this statement I want to prove that even those companies who have invested less than 55 per cent. of their funds in the Government and other approved securities have done very well. First, I will take up the instance of the Hindustan Co-operative Insurance Co. Its investments in mortgage and on real property are Rs. 66,44,858-4-9; on landed properties Rs. 5,99,680. Investments on debentures and shares Rs. 13,08,203.

THE HONOURABLE THE PRESIDENT: Such references to individual companies are not advisable. You may be booming some companies and thus you will be doing harm to others. I want to draw the attention of the Honourable Member to that aspect.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am simply reading the figures from the published statements which are available to every Honourable Member of the House. I am giving them for facility of reference by Honourable Members of this House. Those Honourable Members who have not seen these publications can listen to the figures I am reading out. The investment of this company in Government, municipal and other approved securities is Rs. 29,18,966; investment on policies within their surrender values Rs. 20,24,441-9-0; investment on land and buildings Rs. 52,80,535. Notwithstanding these investments in various percentage ratios, the interest or return has been Rs. 9,09,555.

I take the case of another company, and that is the National Insurance Co. Their investments in mortgage or on real property is Rs. 25,91,200, on debentures and shares Rs. 96,87,401; on Government, municipal and other approved securities, Rs. 84,79,552, on policies within their surrender values Rs. 39,44,029-10-0; on land and buildings Rs. 26,13,335-3-2. Even notwithstanding all these investments, their interest or return is Rs. 13,20,974-6-8. That shows that although these companies which are well managed and whose investments have proved sound by affording a very good return every year, as they have been prospering. Those Honourable Members who would like to see the investments of other companies can kindly see them from the figures contained in the statement* which I am laying on the table.

Now, coming to general insurance companies, even Chambers of Commerce and the Federation of Indian Chambers of Commerce and Industry require that efficient methods of protection should be devised for these general companies. What do they expect from the Government?

"All insurance controlled by the Government should be placed with Indian insurance companies. The Government should require all municipalities, local boards, port trusts, improvement trusts and other quasi-Government bodies and institutions receiving Government aid to insure all their properties with Indian insurance companies."

An Honourable Member: Government do not insure their property.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am not asking the Government to insure their properties. I am asking the Government to require the local bodies and other institutions receiving Government aid to insure their properties with Indian insurance companies.

The Federation Chambers further urge:

"All industries which have received protection from Government in the shape of direct bounty or by tariff should be required to place their insurance business with Indian insurance companies. This suggestion is in harmony with the following view expressed by the Tariff Board in their report in 1932. (I understand such is the case in Ireland.)

'Unless the policy of protection results in the development not merely of the industries to which protection is granted, but also of subsidiary industries it will have failed to achieve its full purpose'.

"All foreign insurance companies doing business in India should be asked to effect re-insurances with Indian insurance companies. An additional stamp duty on policies issued by non-Indian companies should be imposed".

My Honourable friend Mr. Abdur Razzak has already told this House that out of the general insurance companies working in India, there are only 11 Indian as compared to 139 foreign companies. So, Sir, it is

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imperative for the Government to see that the Indian general insurance companies duly develop in this country.

In conclusion, I want to thank you, Sir, for the indulgence you have shown us in moving our amendments. I also thank and congratulate the Honourable the Law Member, Mr. Sen and the Honourable Mr. Bartley on the successful conclusion of their efforts in connection with this Bill. This Bill will soon be passed by the Legislative Assembly. I hope that as regards the amendments which we have failed to carry through in this House, the Government will reconsider the position and I hope the Assembly will carry those amendments. When this will become an Act, this along with the Indian Companies Act will be a monument in memory of the unique services rendered to India by our able Law Member the Honourable Sir Nripendra Sircar. (Hear, hear and Applause.)

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, we have come very nearly to the end of our labours. We have spent seven arduous days in considering this Bill which we are about to pass now. I am not going to count our gains and our losses. We have had some changes of substance, but we have had some reverses also. It may be, Sir, that some of us feel that some of the amendments which were moved on this side of the House deserved a better fate. (Hear, hear.) Agreement, however, in regard to the details of a complicated measure which touches so many divergent interests was not possible. Indeed such agreement would not have been evidence of the life which we are witnessing in the Council now.

Sir, as I said we have had some reverses on this side of the House, but we are taking our reverses as sportsmen and we are not disposed to dwell on them. We would rather like to think of the brighter future that this Bill would open out for Indian companies. The Bill, Sir, will place Indian insurance business in this country on a sound basis. In passing this Bill, we do not wish to prevent the growth of new business, the development of new ventures. We wish the insurance business to grow, and we who believe in the social service state cannot be uninterested in the development of insurance. Schemes of insurance in European countries have made the life of the common man tolerable and bearable, and it is the common man, the tiller of the soil, the worker in our fields, the narrow-chested and prematurely spectacled clerk in our offices and establishments of whom we must think if we wish to have orderly social development in this country. Sir, the Honourable the Law Member has gone as far as he could at the present moment, and I am not disposed to quarrel with him that he has not gone further. Personally, Sir, I have never been afraid of State intervention and I have always been critical of our competitive system of industry; and one reason why I feel glad over this Bill is that it will carry us some distance towards the goal which we have, namely, an insurance business controlled and managed by the State.

THE HONOURABLE MR. HOSSAIN IMAM: Controlled, but not managed.

THE HONOURABLE MR. P. N. SAPRU: Management will probably come later. Nationalization of big business and key industries, whenever it comes, will come through gradual stages; and I look upon this Bill as

pointing the way to the eventual consummation of that goal which, speaking for myself, I have, namely, the nationalization of big business and key industries.

Sir, the Bill is a vast improvement over the existing law; its admirable provisions are in regard to registration, deposits, investment of funds, limitation of commission of agents, submission of accounts, directorate, inspection, commissions and rebates to agents, licensing of agents, winding up and the provisions relating to external companies.

Now, Sir, having regard to the provisions of the Government of India Act, we realize that British companies had to be treated as Indian companies, and this was a limitation which even the Honourable the Law Member could not help. But he has asserted the self-respect of India by the clauses which will enable the Superintendent of Insurance to pay back in their own coin those who do not permit us to do business in their lands.

Sir, we on this side of the House were sorry that it was not possible for the Honourable the Law Member to accommodate us in regard to the question of limitation of chief agents' commissions. There was a strong feeling that the chief agents should also have been dealt with by the Bill. I will not enter into the arguments that were advanced on this side of the House in favour of the proposal that there should be a limitation of the commissions payable to chief agents.

Sir, I will plead for a sympathetic administration of the new Act. Upon the personality, ability, impartiality and integrity of the first Superintendent of Insurance will depend the fortunes of this Bill and of many Indian concerns. Latterly we have witnessed a policy of rapid Europeanization being pursued at the Centre. It is a policy which has really alarmed us. We have had an Economic Adviser imported on an extravagant salary; we have had an Income-tax Adviser imported on an extravagant salary. We have had a Labour Commissioner appointed or about to be appointed, and I believe he is also going to be an Englishman. We have had a Director of Public Information also imported from abroad; and I do not know how many Directors and Assistant Directors we shall have before we have so-called responsibility at the Centre.

Now, Sir, frankly I do not think the Honourable Sir Nripendra Sircar will have an easy time with some of his colleagues who have no opinion of Indian capacity and character. We have faith in him and we hope that he will prove strong enough to resist the pressure of influential colleagues and that he will give us a Superintendent whom we can trust and whom we can understand.

Sir Nripendra Sircar deserves our thanks for this Bill. He has, if I may say so, endeared himself to us by his modesty, by his desire to meet our point of view to the extent that it was possible for him to do so, by his absolute selflessness. Sir, he is a great Indian who has shown in one of the most responsible positions under the Crown great constructive ability; he has shown what Indians are capable of, given the opportunity; and, if I may say so, his political prestige never stood higher than it does today. He has shown throughout these discussions that he is not only one of India's greatest lawyers but also one of India's greatest Parliamentarians; and this Bill will ever remain a monument of his great constructive ability as a statesman of the first rank. To him as also to our good friend the Honourable Mr. Bartley who has ably assisted him in piloting

[Mr. P. N. Saprū.]

and drafting this Bill, we give our sincere thanks. We are sorry to miss Mr. Susil Sen but we hope that our thanks will be conveyed to him also. Sir, we are also grateful to you for the manner in which you have tolerated us. We must have been at times very annoying to you when amendment after amendment was moved from all sides of the House, and it must have been a very trying thing for you to look into all those amendments and see whether they were in order or not. Sir, we are very grateful to you for the manner in which you have presided over our deliberations in regard to this Bill.

Finally, Sir, I should like to give my hearty support to this Bill.

THE HONOURABLE MR. G. S. MOTILAL (Bombay: Non-Muhamadan): Sir, I rise to give my hearty support to this Bill. At the outset I may be allowed to make a remark that the Honourable the Law Member has rendered very great service to the insurance public in India by this Bill. The magnitude of the stakes involved in the insurance business in India can be appraised if we compare the amount of business that has been written in India so far with the deposits which the scheduled banks hold in India. Looking at the latest figures, I find that their demand liabilities are Rs. 131 crores and the time liabilities are Rs. 103 crores in India. That is, the total deposits of these banks thus calculated come to Rs. 234 crores. And when I compare this with the insurance liabilities from the business of insurance written in India, I find that up to the end of 1934 the life insurance,—I am referring to that alone at present,—reached the figure of Rs. 215 crores. By this time I believe it has mounted up to a figure no less than all the bank deposits put together. So, Sir, this is a very important class of business transacted in India. We have got to consider the policy-holders. Their average policy value does not reach more than Rs. 2,000. So, the class which is interested is not one of large means, but generally a class of small means and their interests require to be protected sufficiently. This Bill will go a great way in protecting their interests. It is to safeguard their interests that legislation of this type was urged by the Indian commercial community. The Bill as passed by this House gives sufficient protection to the policy-holders now. We have to remember that whatever the insurer gets, is from the policy-holder. It is the policy-holder's money. Unlike other business where the man puts his own funds and competes with another there the purchaser benefits at the cost of the producer, here it is the insured who pays his own money and he does not know whether he stands to get back all that he has paid. He does it with an intention to insure his life and he puts his small savings into the insurance funds. If these insurance companies go on merely canvassing business to pay higher commissions and rebates, be it noted that they pay out of nothing but out of the funds of the insured himself, and if they go on in this race, the result will be that those who are interested in the management of the business may enrich themselves to some extent but the insured himself does not secure the object for which he insures. The provisions of this Bill will go a great way to protect him. There is the provision about deposits. Without making a substantial deposit the company cannot be started and the public cannot be defrauded. I need not, at this stage, recapitulate those provisions. Certain amendments were accepted by the Honourable the Law Member here, and improvements have been made in the Bill. No doubt,

where we have two Chambers—a bicameral constitution—whenever a Bill originates in one Chamber and goes to the other Chamber, the other Chamber improves it as far as it is open to it to do so. Sir, there are certain loopholes still of which I am sure the Honourable the Law Member is aware as much as, if not more than, any one of us on this side of the House, and when the task of rule-making is taken up, those loopholes can be closed up to some extent. I will request the Honourable the Law Member to bear this in mind at the proper time.

Sir, I give my support to the Bill.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I rather suspect the Honourable Mr. Ramadas Pantulu feels like I do—like a school boy at the end of a term! I must say that I appreciate very much the kindness of my Headmaster and the Assistant Masters, the Honourable the Law Member and the Honourable Mr. Nixon and the Honourable Mr. Bartley. They have assisted me a great deal. There are two suggestions which I would like to make to the Honourable the Law Member. One is that he might start a drafting school. But I prefer my alternative—

THE HONOURABLE SIR NRIPENDRA SIRCAR: What fees?

THE HONOURABLE MR. R. H. PARKER: That I will consider later if my alternative is not accepted. I prefer my alternative and that is, that he should supply us with some draftsman. I believe in the House of Lords Peers are not supposed to be able to draft. That is probably because they are hereditary. Of course we are supposed to be better. But I, for my part, have found drafting rather difficult and I would like the Honourable the Law Member to consider whether he could not make some arrangement by which we might be provided with a draftsman here to correct our errors before we come into this House. I have had a very great deal of assistance from Members of the other Parties in agreeing as to which particular amendments were the best in the particular cases concerned. I am very grateful for that help. The Honourable Mr. Ramadas Pantulu was objecting to the fixing of the remuneration of managing agents at Rs. 2,000. It is not fixed; it is only the maximum. Then, my Honourable and Gallant friend from the Frontier, who I see is not in his seat now, suggested that we ought to have State insurance. The Government of the North-West Frontier Province may have lots of time for that, but I suggest that the Government of India have not and that they can devote their time to other matters more usefully. I think we have been unkind to the small companies in that we have allowed them to give more commission than the others. I am sorry and I do not think it is kindness for they cannot afford it. It will have the effect of encouraging bad business. However, that is a minor detail.

Sir, I support the Bill.

THE HONOURABLE NAWABZADA KHURSHID ALI KHAN (Punjab: Nominated Non-Official): Sir, I join the other speakers in offering my hearty congratulations to the Honourable the Law Member on the Insurance Bill that is about to be passed. The Honourable the Law Member rightly deserves the warm congratulations which he has received from

[Nawabzada Khurshid Ali Khan.]

all sections of the House for so skilfully and ably piloting the Bill through the Legislative Assembly and now in this House. Sir, we are also grateful for the help which the Honourable Mr. Bartley has given in this House. The Bill as it finally emerges from the Council of State will be a great legislation and the Honourable Sir Nripendra Sircar can take legitimate pride on this great achievement of his.

Sir, I give my whole-hearted support to the Bill.

THE HONOURABLE MR. J. REID KAY (Bengal Chamber of Commerce):
Sir, I have much pleasure in giving my hearty support to this Bill. Having reached the end of our labours, which I am sure none of us but feel have been to good purpose, I would like, on behalf of the European community we represent, to join in the congratulations to the Honourable the Law Member and the other official Members associated with him on the successful carrying through of this important measure. When this House met ten days ago, we contemplated the multitude of amendments that faced us. It looked as if we were in for a very strenuous time. We seem to have got through it most expeditiously and I feel that we have the Honourable the Law Member to thank for the wonderful way in which he has piloted the discussion. Insurance is a complicated business, and the grasp of the subject shown by the Honourable the Law Member speaks volumes for the tremendous work he has put in on this Bill, work which must have been a very great strain on him physically, but which he has tackled so cheerfully, both in the other place and here.

Sir, turning to the provisions of the Bill itself, it is not my intention to take up much of the time of the House but on account of the important business interests we represent I think I may be allowed to make a very few general comments. I would like to say that European business interests regard the Bill favourably, though there are features in it which do not altogether coincide with the views expressed by these interests. For instance, it possibly might have been better had they made it a little less mandatory in character. As it is a measure where administration plays such an important part it may be found that elasticity might be more of an advantage than otherwise. To lay down that Government "shall" do this or that, instead of "may" does not give much latitude, and we would have thought in these days of crying out against anything suggesting bureaucratic administration our Honourable friends on the other side of the House might have preferred "may" to "shall"!

Then, Sir, as regards interfering with investments, as has been done under clause 26 (I do not know what number it is now), European opinion does not recede from the principle of leaving insurance companies freedom of investment, especially in the case of companies transacting world-wide business, such as most non-Indian companies are doing. It is simply that conditions in India are different from elsewhere and the case made out by the Law Member, for example, the difficulty of control over the class of investment held, is what has rallied us to his side. Sir, to repeat, he has handled the question boldly for the safeguarding of policy-holders, while the insurers' interests are also respected, leaving no restriction on their investment policy. We recognize the difficulties that have had to be faced and we hope it can be said that we have co-operated. Insurance in India should in future be on a much

better footing and I am quite sure that in time to come this measure will have proved itself a most valuable addition to the Statute-book.

Sir, of course a lot will depend on its administration. Insurance of its very nature allows of a tremendous lot of give and take and co-operation amongst those handling it. There was a danger we thought at one time of this Bill being regarded as a measure to deal with competition, but I am glad to say better counsels have prevailed and that has been avoided. Competition there will always be and business thrives on it. Sir, my opinion is that this Bill will be the foundation for better relations and a general standing together of insurers determined to give it fair play and to foster the insurance habit amongst the peoples of India. (Applause.)

THE HONOURABLE THE PRESIDENT: Would you like to sum up the debate now or after lunch?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I can finish in 10 or 15 minutes if you will give me time.

Sir, I have very little to say because there is hardly any new point raised and as I said I do not want to repeat arguments which have already been advanced on the floor of this House. One observation, Sir, I should make about the rather loose language—I believe it was used by my Honourable friend Mr. Ramadas Pantulu—in connection with clause 3(3). If I understood him correctly—I hope I did not—he seemed to use the word “affect”.

THE HONOURABLE MR. RAMADAS PANTULU: “Applied”.

THE HONOURABLE SIR NRIPENDRA SIRCAR: That is all right, Sir. What I want to explain to the House once more is this. However much insurance business may be affected, there is no question of bringing in clause 3(3) unless Indians are actually prevented from carrying on business there. American discriminatory laws; relating to emigration, etc., do not matter as in America, Indians are not prevented from carrying on insurance business. If it is a law which stops short of prevention, then the remedy is under section 53. That is to say, you can impose special requisitions on the foreign insurer who is carrying on his business here and who asks us to comply with similar special requisitions in that country. Prevention of carrying on insurance business altogether and under any circumstances is the condition precedent to attracting clause 3(3). Then, Sir, as regards regret expressed over the limitation of chief agents' commission, rather our inability to accept that position, I can quite believe and quite understand that some Honourable Members are firmly of that opinion, but as I have said, it is case of difference of opinion and while I respect the opinion which comes from the other side, after all in the end I had to pay some attention to my own opinion, especially when that agrees with the opinion of large majorities in the Assembly and in this House.

There was a point which I wanted to mention but it has been met by my Honourable friend Mr. Parker; so I would not go into that.

As regards shareholders being allowed to vote in connection with the election of directors representing policy-holders, I do not brush aside the argument which has been used from the Opposition Benches and I quite

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realize that in some cases to some extent what has been called encroachment may take place. On the other hand, to deprive a shareholder of a right because he is a policy-holder on the ground of the two interests being conflicting, seems to be an unusual proposition. Such a principle so far has not been applied in connection with companies under any law. If I may give an illustration, a shareholder may be a debenture-holder and the two interests may be conflicting. In spite of that he is not prevented from asserting his right as a shareholder. These situations are arising so often in connection with the administration of Company Law, and we have adhered to the principle generally followed. I appreciate the force of the observations which have been made, but when one has got to balance opposing considerations, the result supports the course we have followed.

Then, Sir, the observation was made that Indian States should fall into line with this Bill. Well, all that I can say is that Honourable Members have noticed a provision giving power to the Governor General in Council to relieve Indian States in certain circumstances. That is not exactly the point made to which I am referring. The point is that they should fall into line. Well, Sir, I do not know why they should not, but of course that is matter entirely beyond our control; that is for them. But if they see that this Act is a really good Act and is doing good to insurance, I have every hope that they, having generally adopted legislation on the same lines as British India wherever the legislation has been good and wherever it did not conflict with any of their special interests, I have every hope that they will follow the same course in this case.

Sir, I listened with interest to a summary of the provisions of the Bill from my Honourable and Gallant friend Sir Hissam-ud-Din. He made one observation which possibly he made under a misapprehension. I mean to say he made certain statements about the qualifications of insurance agents. I do not think as a matter of fact that under the provisions of this Bill the Superintendent could insist on any particular qualification. As a matter of fact if the proceedings of the Assembly are looked into, it will be found that the strongest objection was raised from many quarters—I do not say unanimously—to giving such a power to the Superintendent, i.e., power enabling him to get rid of licensed agents, because they did not come up to certain standard qualifications, and so on, and I think I am right in saying that, although opinion was not unanimous, there was a very large preponderance of opinion in favour of what has been accepted in the Bill.

Sir, one observation was made by my Honourable friend Mr. Motilal which is of really great practical importance. He said that the Government should in framing their rules try to close some of the loopholes which exist. That is a general statement, Sir, with which I absolutely agree. It will not be an easy task for those who prepare these rules, but surely that is an observation which will be given due attention to in framing the rules.

I find, Sir, I have nothing more to say and I do not want to take up further time.

THE HONOURABLE THE PRESIDENT: Honourable Members, before I put this Motion for final acceptance of the House, I desire to make one

or two observations. I congratulate this Council on having dealt with a Bill of such great importance, of such great magnitude and containing many complex subjects with such dispatch and expedition. A great deal of credit is due to several Members of this House for the very efficient manner in which they have dealt with this Bill and laid their views before the House. The speeches throughout the debate were of a very high order as usual in the Council of State and I congratulate them on their success in materially altering this Bill as it came from the Legislative Assembly. The Honourable Mr. Sapru expressed some disappointment in stating that there were several reverses in this House, but I think the House had more victories than reverses. (Hear, hear.) I am also very glad that the Honourable Mr. Hossain Imam in the course of his speech expressed disappointment in not at the preliminary stage having had a Joint Select Committee to consider this Bill and if a Joint Select Committee had been appointed it would have materially reduced the work of this House and probably at the earlier stage in the Assembly a better Bill would have been produced. The Honourable the Law Member has given a full and complete explanation on this subject. He did his very best but he could not get over the opposition in the other House. But I trust that when this Bill goes back again to the Legislative Assembly for final disposal, Honourable Members of that House will see the wisdom and the necessity of having Select Committees of both Houses in cases dealing with commercial and other kindred business. (Applause.) This House has many commercial brains and they have always shown in dealing with commercial matters superiority of talents. (Applause.)

Finally, I must associate myself whole-heartedly with the tribute which you have paid to the Honourable the Law Member. (Applause.) As all of you are aware, he had a wonderful practice and had made a great reputation for himself in Bengal both as a lawyer and as Advocate General. He sacrificed a princely income to serve his country in the Central Legislature, and during the time that he has been in the Assembly we have all noticed his consummate skill in dealing with most important questions and his masterly ability and erudition in legal matters. (Applause.) I therefore also take this special occasion to congratulate the Law Member on the great success with which he has piloted this difficult Bill through both the Houses. (Applause.) I also join my Honourable friends in appreciating the good work of our colleague the Honourable Mr. Bartley who is an excellent draftsman and is an acquisition to the Legislative Department.

I will now place the Motion for your acceptance.

The Question is:

“That the Bill to consolidate and amend the law relating to the business of insurance, as passed by the Legislative Assembly and as amended by the Council of State, be passed.”

The Motion was adopted.

INDIAN MINES (AMENDMENT) BILL.

THE HONOURABLE THE PRESIDENT (to the Honourable Mr. Clow):
How long do you think you will take in making your Motion about the Indian Mines (Amendment) Bill?

THE HONOURABLE MR. A. G. CLOW (Labour Secretary): I should take not more than ten minutes personally, Sir.

THE HONOURABLE THE PRESIDENT: May I know from the House what is their wish? Do they wish to proceed with the Bill or take it after adjournment?

HONOURABLE MEMBERS: We would like to proceed with the Bill.

THE HONOURABLE MR. A. G. CLOW: Sir, I move:

"That the Bill further to amend the Indian Mines Act, 1923, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

This Bill is designed to carry out three purposes and as two of these formed the subject of a measure which we discussed last year, it is not necessary for me to enlarge on them at any length. Honourable Members will recollect that in the measure passed last year we added a new sub-section to section 19 of the Mines Act. That was a sub-section empowering the Inspectorate to pass orders preventing the extraction of pillars where that was attended with danger of collapse or fire and to regulate the dimensions of galleries. The sub-section had to be framed rather urgently and, as the matter was going to be considered again by the Coal Mining Committee, that provision was made temporary and has at present force only for two years. The Coal Mining Committee has reported unanimously in favour of the permanent retention of the provision and it has been found to be extremely useful. I believe that since it was enacted no less than 83 orders have been passed under that sub-section. The purpose of clause 2, therefore, is to convert that sub-section from a temporary one into a permanent one.

Clause 3 makes certain minor changes in the section of the Mines Act which deals with keeping information confidential. It is fully explained in the Statement of Objects and Reasons which Honourable Members have before them, and unless any further points arise when we come to the clause, I do not propose to deal further with it.

Clause 4 is in effect a revision of a section which we added to the Mines Act last year. It was a section enabling Government to frame regulations for the establishment and maintenance of central rescue stations. Unfortunately when we came to draft the regulations we found that the form of the section was such that they could not be drafted in the manner which we thought would be most convenient both to mine-owners and to Government. To mention only the most serious difficulty, the section would oblige us to recover the cost of these rescue stations by levies on individual coal-owners which would be an extremely roundabout and difficult task. What we propose now is that the cost of the rescue stations should be met by a duty levied on despatches in the manner indicated in sub-clause (d). The only other sub-clause I need allude to is sub-clause (b) which is a new one and provides for the management and supervision of these stations.

The last clause is one providing for previous notice in the case of any rules we frame under this section.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, the Honourable Mr. Clow has specialized in asking the House to take into consideration Bills to which the advanced with power in favour of the Executive. My suggestion Sir, would

has asked us to take into consideration is no exception to the character of the Bills he introduces. I am glad, Sir, to say that I am able to give my general support to the Bill. There are, however, one or two observations I would like to make in regard to one or two cognate matters. The question of the reorganization of the mining industry was the subject-matter of an exhaustive enquiry only lately. Sir, the minority of the Coal Mining Committee recommend nationalization of the mining industry. Now, Sir, the question that I would like to ask is this: Have the Government arrived at any conclusions in regard to certain major recommendations of that Committee? When can we expect a comprehensive measure dealing with these major recommendations?—such as compulsory sand-stowing in the mines? Sir, what is going to be Government's attitude towards this question of nationalization? I hope, Sir, that Mr. Clow will be able to give us some indication of the Government's intentions in regard to this matter. Sir, I hope that the Committee which the Bill is setting up and which is to be of a temporary nature will become permanent and that we shall have soon a mining authority as has been recommended by the Coal Mining Committee. If such an authority as is suggested by the Coal Mining Committee is set up, there will be no need for a temporary Mining Committee or central rescue station committees such as are being set up under the Bill.

Sir, I hope that under the rules which will be framed by the Government, the miners will be given the same representation as owners and managers and that if the representation of the managers and owners is increased, the representation of the miners will also be correspondingly increased. May I also suggest, Sir, that it would be more satisfactory if the selection of the representatives of the miners was left to the trade unions. If you are having, for example, a rescue station in the Jharia coalfields, then leave the selection of the two members who are to represent the miners to the trade union there.

Sir, I find that power has been taken by the Executive to frame rules under the Bill and that these rules will come into force without waiting for confirmation by the Legislature. I realize, Sir, that in a modern community, where you have complicated social and economic legislation, subordinate or delegated legislation must play a great part. I also realize, Sir, that it would be impracticable to wait for such time as the House actually approved the rules by positive and specific resolutions. At the same time, Sir, publication in the Gazette of India would not seem to be enough. In the case of the Insurance Bill the rules are to be laid before both the Houses and then resolutions can be moved in regard to those rules. I think, Sir, the best plan would be to provide that rules framed under the Bill by the Executive Government shall be laid on the table of both the Houses and shall take effect immediately they are framed unless this House takes objection to them by specific resolution. This provision, Sir, would protect our rights. Sir, as I said, I am not opposed to this delegated legislation but there are certain safeguards that we must have in regard to delegated legislation. We have, Sir, to discover methods whereby we can hasten the process of legislation and at the same time preserve the parliamentary supervision which we exercise. Sir, the real trouble with us is that we have no responsible Government and that makes us unwilling to part with power in favour of the Executive. My suggestion, Sir, would

[Mr. P. N. Saprú.]

safeguard our rights and privileges and also give the Government the opportunity of acting quickly. Lay the rules on the table of the House and then leave it to the Members to move specific Resolutions if they so desire either approving or disapproving the rules. Publication in the Gazette of India would not seem to be enough. The rules, Sir, are going to be of an important character and I should not like, Sir, unlimited power to be given to the Executive.

Sir, these are all the observations I have got to make and I would like to give my general support to this Bill.

THE HONOURABLE MR. A. G. CLOW: Sir, my Honourable friend Mr. Saprú has covered a pretty wide field, wider, I think, than I can venture to cover myself, because he dealt with some matters which, to my mind, arise very indirectly, if they arise at all, from this Bill. He referred to the Coal Mining Committee and even talked, I think, of nationalization. Well, all I can say about that is that we have dealt with a good many of the Coal Mining Committee's recommendations already, because a lot of their less important recommendations do not involve legislation, but we have reached no conclusions as yet on the bigger issues regarding the sand-towing scheme which they propose.

My Honourable friend was, I think, under a misapprehension when he suggested that the committee or committees contemplated under this measure were of a temporary character. There is no such proposal, and whatever action may be taken on the Coal Mining Committee's Report, we contemplate that these rescue stations will be permanent and there will be a need of some permanent body for supervising them. No body which is set up to supervise the sand-stowing scheme would necessarily be suitable both for the management of rescue stations and for the administration of the funds collected to maintain them.

As regards the actual representation, the present intention, I think, is that miners should have the same representation as owners and the question of representation through trade unions will be considered. But I obviously cannot give any undertaking as to the final form of the regulations because these have to be published for criticism and we are bound to take into consideration all the criticisms and opinions received.

Then my Honourable friend, in conclusion, dealt with the big question of delegated legislation. I am not prepared to make any general observations on that field, but he seemed to be discussing an imaginary amendment which was not before the House. I would, however, point out that in the present case, whatever view one may take on the general issue, these provisions have been surrounded by safeguards which were not there when we passed the measure last year. In the first place, there was no provision then for previous publication; in the second place, there was no provision regarding the constitution of the supervisory body such as we now have in clause (b) in section 4; and in the third place, there was no limit on the cost, whereas the duty that can be imposed is now subject to a monetary limit. I think the House can rest satisfied that the provisions as they now stand the important points are covered by substantive legislation, and not by delegated legislation, and that the other matters are matters of minor detail that hardly deserve the consideration of this House.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Bill, further to amend the Indian Mines Act, 1923, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

Clauses 2, 3, 4 and 5 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. G. CLOW: Sir, I move:

"That the Bill, further to amend the Indian Mines Act, 1923, for certain purposes, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

The Council then adjourned *sine die*.