

involves the fate of 7 million people. Therefore, we are very much perturbed over it.

Mr. Speaker: The hon. Minister will also be invited. I would invite him to attend the meeting of the Business Advisory Committee.

Shri Biswas: I am in the hands of the House. I will abide by its directions and your directions.

Mr. Speaker: I am not deciding anything. We are having a meeting of the Business Advisory Committee at 4 o'clock. The hon. Minister, if he can kindly be present at the meeting, may take part in the meeting. The Minister of Parliamentary Affairs will also be present. So, let us all look into the matter.

Shri Gidwani (Thana) *rose*—

Mr. Speaker: Sufficient number of copies of the statement may be given to the Members of the Business Advisory Committee.

Shri Gidwani: The hon. Minister said that they were very sincere. I would invite the attention of the hon. Minister to the statement made by Shri C. C. Desai, Indian High Commissioner in Pakistan, where he said that the feeling among the Pakistanis is that every abduction was a love affair. Is that the sincere feeling?

Shri Biswas: As a matter of fact, we were looking to the future, and therefore, we definitely decided that there need not be any recriminations as to what happened in the past. There have been failures on our side and failures on their side. Therefore, we were anxious to secure some improvement and we were anxious to see that in the future things would have very much improved. We were satisfied with the assurance given from the other side. But it all remains to be seen how the assurances are implemented.

Shri Jhumjhumwala (Bhagalpur Central): How many assurances you had in the past?

Sardar A. S. Saigal: They have not yet been fulfilled!

LIFE INSURANCE CORPORATION BILL—*contd.*

Clause 43.—(Application of the Insurance Act).

Mr. Speaker: The House will now resume clause by clause consideration of the Life Insurance Corporation Bill. Clauses 2 to 4, 11, 12, 14, 19, 22 and 25 have been disposed of. Clause 43 has to be taken up now. We have taken 14 hours and 6 minutes already. We have extended the time from 15 to 18 hours. So, we have thus three hours more. Therefore, we must close the discussion at 3-30 p.m. today.

Shri Tulsidas (Mehsana West): How is it possible?

Mr. Speaker: I shall apply the guillotine. Already, we have extended the time from 15 to 18 hours. We have got the Second Five Year Plan to be discussed. Therefore, let us expedite this matter.

Shri N. C. Chatterjee (Hooghly): You were pleased to allocate 1½ hours for clause 43 and you allocated 2 hours for the Schedules, and the rest of the clauses were given 1½ hours.

Mr. Speaker: So much time has been taken yesterday. I hoped that within 18 hours, we could finish the rest of the clauses.

Shri N. C. Chatterjee: I do not think we have exceeded the time allocated by you.

Mr. Speaker: We should find ways and means to finish this within three hours from now. The Second Five Year Plan has to come up for discussion. The discussion on it has been pending for some time. We must allow a couple of days or so for that purpose. We are hard-pressed for time.

Shri U. M. Trivedi (Chittor): How can we finish this Bill in three hours from now?

Mr. Speaker: I am not going to extend the time. Of course, if even a single minute is taken away for some other purpose and if there is anything wrong in the calculation, I will allow for it. We have extended the time from 15 to 18 hours. We shall proceed to clause 43.

Shri Tulsidas: This is a very important measure. Different timings have been allotted for the different sets of clauses. What I feel is that important clauses are now coming up. Clause 43 and the Schedules are very important and they will take 3½ hours. Therefore, I request that you will be pleased to extend the time.

Sardar A. S. Saigal (Bilaspur): It should be finished by 5-30 today.

Mr. Speaker: We shall try to finish it by 4-30 p.m. today.

That means, I am extending the time from 3-30 to 4-30.

Shri Tulsidas: It is difficult to finish it.

Mr. Speaker: We shall try to get through it. Let us all co-operate in doing so. Now, the hon. Members who wish to move amendments to clause 43 may do so.

Shri Tulsidas: I beg to move:

(i) Page 19, line 9—

(i) after "26" insert "27, 27A";
and

(ii) after "39" insert "40B".

(ii) Page 19—

after line 10, add :

"Provided that investment under section 27 of the Insurance Act shall in no case exceed 55 per cent. of the controlled funds;

Provided further that the limit on expenses under section 40B of the Insurance Act shall be 85 per cent. of the first year premium and 12 per cent. of the renewal premium."

(iii) Page 19—

for lines 16 and 17, substitute :

"Sections 2D, 10, 11, 13, 14, 15, 20, 21, 22, 23, 25, 28, 28A, 30, 35, 36, 37, 40, 40A, 42, 43, 44, 47, 48, 102 to 106, 107 to 110, 111, 112, 113, 114 and 116A."

Shri Sadhan Gupta (Calcutta South-East): I beg to move :

(i) Page 19—

for lines 9 and 10, substitute :

"Sections 2B, 3, 18, 26, 33, 38, 39, sub-section (1) of section 40A, sections 41, 44, 45, 46, 47A, 50, 51, 52, 110A, 110B, 110C, 113, 119, 121, 122 and 123."

(ii) Page 19, line 16—

omit "35, 36, 37".

(iii) Page 19, line 17—

omit "113"

(iv) Page 19, lines 25 and 26—

after "subject to" insert "annulment or".

Mr. Speaker: All these amendments are before the House.

The Minister of Finance (Shri C. D. Deshmukh): I have just given notice of an amendment to indicate that I am prepared to accept the insertion of 27A and 28A in amendment No. 29 of Shri Tulsidas to clause 43. He has given a large number of sections which should be inserted. After "25", I am accepting 27A and 28A.

Shri Tulsidas: I have got amendment No. 27 which seeks to insert "27, 27A" after "26". If you do not want to have "40B", I am prepared to accept your suggestion.

Shri C. D. Deshmukh: 27A and 28A will be inserted in the list of sections given under sub-clause (2) of clause 43.

I beg to move :

(i) Page 19, line 16—

after the figure "25", insert "27A, 28A".

(ii) Page 19 line 21—

for "conditions or modifications", substitute "conditions and modifications".

I am suggesting "conditions and modifications" instead of "conditions or modifications". That is a verbal change. I mention this now so that the hon. Member may not spend so much time in arguing the case in regard to investment and returns of investment, so far as the private sector is concerned, from the corporation.

Mr. Speaker: Amendments moved:

(i) Page 19, line 16—

after the figure "25", insert 27A, 28A".

(ii) Page 19, line 21—

for "conditions or modifications", substitute "conditions and modifications."

Shri Tulsidas: I thank the Finance Minister for having partially accepted some of my suggestions made in my amendment No. 29. The point that I wanted to make was that sections 27 and 27A are so important that they should be applicable as a whole on the corporation. Now, the Finance Minister would like to have certain modifications and alterations, and for that purpose, he would like to have section 27A and not section 27. Of course, he is accepting to insert 28A. But the other things are removed.

Shri C. D. Deshmukh: All these sections are put in there. After "25", I have sought to add "27A, 28A". Then, sections 35, 36, 37 and so on so forth, follow.

Shri N. C. Chatterjee: Is that in sub-clause (2)?

Shri C. D. Deshmukh: Yes. I do not accept anything from the amendment of Shri Tulsidas, as such, I am saying that in case the hon. Member wants to make a point about investment, as he did yesterday or the day before yesterday in his speech, the corporation should be obliged to adhere to the criteria which at present govern investments by a life insurance company in the private sector. I am prepared, therefore, to accept 27A and 28A being added on in sub-clause (2).

Shri Tulsidas: Therefore,—discussion confines itself to a very narrow point. I agree that it requires a certain amendment, and therefore, the Hon. Finance Minister would like to insert 27A and 28A in sub-clause (2).

I would like to ask the Finance Minister whether section 27 should not be there. Section 27 is meant for approved securities. Under the present section 27, companies cannot invest in any securities unless they are approved securities. There is a certain relaxation if the

Central Government so chooses. The Central Government has got an authority and a discretion. Section 27 is also a wholesome provision and it should be made applicable because that is only a restriction with regard to approved securities. That means that investments will be done on the basis of certain criteria laid down under section 27. Section 27A merely provides with regard to percentages and so on. If there is a new issue, as the Finance Minister knows fully well, the prospectus has to mention whether the securities are approved under section 27. My point is, if you want to apply section 27 also....

Shri C. D. Deshmukh: I am sorry to interrupt. I might cut short discussion. My desire is to cut short the discussion. One would find in section 27, provided that the Central Government approves, provided that the Central Government directs, etc. Since the Central Government itself is administering the question of investment in approved security, we thought that is a matter which could be regulated either in accordance with sub-clause 3 or in accordance with the rules and regulations to be made by us. It is no good taking a whole section like this which is not intended for the Central Government, that is to say, the sanctioning authority itself or the approving authority itself. Approval means approval of the Central Government. Our scheme was, whereas we do not deny the necessity of having investments made on sound lines, since the Central Government can issue the direction, it may be regulated under sub-section (3) or the rules and regulations. That is the important reason for not including section 27 and then going about chopping and changing.

Shri Tulsidas: If that is the intention. I am prepared to accept the position.

Shri N. C. Chatterjee: Really I take it that there is no intention to negative the operation of section 27.

Shri C. D. Deshmukh: How can it be? That is rather a very sound principle of functioning. We have been exercising these powers. Certainly we cannot turn into a malignant authority denying everything that we have regarded as wholesome.

Shri N. C. Chatterjee: As the section stands, it may be difficult to operate.

Shri C. D. Deshmukh: That is the point. It is very important with reference to certain people who are subject to the authority of the Central Government. Therefore, there are difficulties in the way of applying it wholly or with minor modifications to the sanctioning authority itself.

Shri N. C. Chatterjee: Therefore, the proper place will be invocation under sub-clause (3).

Shri C. D. Deshmukh: Under sub-clause (3) or under the rules and regulations.

Shri Tulsidas: That reduces the discussion to this. I would like to draw the attention of the Finance Minister to section 112. He has accepted sections 27A and 28A. In my amendment sections 42 and 112, etc. are there. Section 30 relates to liability of directors for loss due to contraventions of sections 27 and 29. The Finance Minister mentioned yesterday who will be liable. I would ask the Finance Minister whether it will not be proper that the people who are going to manage this Corporation should have certain liabilities, so that they may not invest without any criteria or conditions. Then, there is section 112 with regard to declaration of interim bonus. That again is important. There should be a certain amount of latitude to the Corporation under section 112 to declare interim bonus. If it is felt that that should be applicable, what remains is simple. Section 42 relates to licensing of agents.

Shri C. D. Deshmukh: We choose the agents now. There is no question of licensing for other purposes.

Shri Tulsidas: I accept the position.

Shri Sadhan Gupta: This clause applies certain provisions of the Insurance Act in three groups. The first group applies automatically. The second group enjoins on the Government to issue a notification as soon as possible to apply certain other sections with certain conditions or modifications, according to the amendment of the Finance Minister and the third group allows the Government to take time to consider and apply such of the provisions as it thinks fit.

The first group is of the utmost importance, because the application of the first group of sections will determine what the privileges and rights

under certain sections will be. For example, there are certain sections regarding policy-holders: right to assign, right to nominate and all that, which is quite beneficial. There are other sections and rights given under other sections which have not been included. Take the case of agents. There is subsection 1 of section 40-A which regulates their commission. A maximum is fixed beyond which it cannot go. I do not see why section 40-A should not be automatically applied. Although this section only fixes the maximum commission payable to agents, yet the agents think it a Charter of their rights to earn commission. The Corporation, if it thinks fit, may, in proper cases adopt a particular rate of commission. Even today, there are companies which have adopted a slab system by which the maximum is paid to agents only when they display efficiency in securing a large volume of business. For example, in the Oriental, I think they have a slab according to which agents bringing in a certain proportion of business get a certain percentage, 25 or so. Then it goes on increasing till the maximum of 35 per cent. is reached. There is provision that in the second and third year an additional 2½ per cent. may be paid. All these are salutary provisions. I do not see why they should not automatically apply. If the Central Government thinks that any lower rate of commission might be advisable and if it finds that at that lower rate, the same volume of business or a greater volume of business could be coming in, it is open to them, even in spite of section 40-A, to do so. But, I would ask them not to scare the agents by giving them to understand that immediately the commission would be reduced. That is the impression created by the omission of section 40-A from the First Schedule.

An even more unfortunate omission is section 44. Section 44 was won by the agents after a long struggle. It embodies a very fair principle which is that—an agent if he unfortunately died while, formerly, lost the right to his renewal commission. Section 44 provides that his successors would be entitled to continue to receive. That is a fair deal. Why should the commission depend on the chance of the agent keeping alive. Why should not his family have the benefit of the commission which he has earned?

Therefore, I do not see why section 44 has been relegated to the second group, namely the group of sections which can be brought into operation after conditions and modifications are imposed. That is very unfortunate. Section 44 should be accepted as it is, unless of course the Government proposes to modify it more in favour of the agents, but I think that is not the intention. Therefore, section 44 should be automatically applied.

Another section that should be automatically applied is section 113 which gives the policyholder the right to a surrender value on his policy. If a policyholder wants to surrender his policy, then under this section certain values have to be fixed which the policy would acquire after the lapse of a certain period. That is a privilege of the policyholder and that should be automatically applied. I do not know why that section also has been transferred to the second group. To secure these objectives, I have sought to introduce amendments 122 and 124. Amendment 124 is consequential to 122.

Coming to the second group of sections, I am rather intrigued to find why sections 35, 36 and 37 have been included there at all. In my submission sections 35, 36 and 37 have no place in the Bill anywhere. These are sections dealing with amalgamation and transfer of insurance companies. When a company becomes insolvent, for example, it amalgamates with some other insurance company, for transfer of its business to some other company. What has the Insurance Corporation to do with it? The Insurance Corporation is a monopoly which does its business. If it succeeds, well and good. If it fails, it is a calamity. Where can it transfer its business, with whom can it amalgamate its business? Therefore, I do not see why sections 35, 36 and 37 were included in the second group. Therefore I have suggested amendment 123 to take off those three sections.

My last amendment—and I have moved similar amendments to other clauses which make similar provisions—is to the effect that the notifications by which the sections of the Insurance Act will be applied to the Corporation must be subject not only to modification by Parliament but must be subject also to annulment by Parliament. The clause as it stands at present is that the

notifications will be laid before Parliament and will be subject to such modifications as may be made by Parliament. But what we want is that Parliament should be entitled not only to modify these notifications but must also be entitled to annul the notifications altogether if Parliament thinks that they are not proper.

Therefore, I commend these amendments to the acceptance of the House. Particularly I would request the Finance Minister to clarify why sections 35, 36 and 37 relating to amalgamation and transfer of insurance business have been included in this Bill and how it is relevant to the Corporation at all. If he does not find any relevancy I would ask him to accept my amendment 123.

Shri N. C. Chatterjee: I want to point out only one thing. Now that the hon. Minister is accepting sections 27A and 28A to be incorporated in sub-clause (2), a good deal of our discussion is unnecessary. I am only asking the Minister whether he would consider also putting in section 40B. Section 40A deals with limitation of expenditure on commission and section 40B deals with limitation of expenses of management in life insurance business. They really go together, and that is a very salutary provision because you not merely control the expenditure on commission but you control the expense ratio. I am asking whether that cannot be put in in sub-clause (2) because if it is put in sub-clause (2) then the necessary flexibility will be there and Government can accept it or apply that section subject to any conditions or modifications it likes.

Shri Sadhan Gupta has pleaded for upgrading section 40A from sub-clause (2) to sub-clause (1). He wants to make it compulsory. If that could be done I would be very happy. I also want some assurance from the hon. Finance Minister that putting in section 44 in sub-clause (2) will not act detrimentally to the interests of the agents because this section was put in so that the agents could be assured of their commission. In some cases the agencies were terminated and you know under our law you cannot force the man to continue as agent. Therefore, this section 44 was very necessary in order to prohibit the cessation of payments of commissions earned by agents and to

[Shri N. C. Chatterjee]

see that it should not stop simply because the agency is terminated. That section was a satisfactory and salutary provision. I hope there is no intention to utilize that section or the power now being taken to do something detrimental to the interests of the agents and the persons who have worked hard for earning their commission.

Shri Morarka (Ganganagar-Jhunjhunu) : I want to say a word about the decision of the hon. Finance Minister to incorporate section 27A in this clause 43. At one time I myself was strongly in favour of the provisions of section 27A applying to the Corporation, but then there is a practical difficulty and I hope the Finance Minister would kindly consider it when he applies the provision of this section to the Corporation. I wish to refer to sub-section (4) of section 27A. It says :

"(4) An insurer shall not out of the controlled fund invest or keep invested in the shares or debentures of any one company other than a banking company or investment company more than—

(a) two and a quarter per cent. of the sum referred to in sub-section (1) of section 27, or

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

Till now we had 160 different companies and each company was entitled to invest up to ten per cent. in the company whose shares it was buying, but now the Corporation would become one single company and if the Corporation also can invest only ten per cent. in any company, then the position would be that many shares which the Corporation hold now will have to be liquidated and sold in the market. I think when the modification is made before applying this section the Finance Minister would kindly consider this point and I hope the necessary modification will be made.

Shri N. C. Chatterjee: That is why it is in sub-clause (2).

Shri C. D. Deshmukh: The last speakers' observations only illustrate the difficulty of applying the sections as they stand and I cannot pretend to have examined in detail the implications of the application of all these sections.

They will have to be examined very carefully and wherever modifications are necessary we shall have to make them. That is why we divided these clauses into three categories: firstly, those which we were certain should be applied. About the others we gave ourselves a little chance, but in the main it indicates that we are prepared to accept the principle of it. The third really means that it is a residuary category where we must conduct an individual examination. This point is valuable and we shall certainly bear it in mind in working out the application of section 27A in accordance with sub-clause (2).

Then I come to section 40B. In principle I have no objection. I made observations the other day to indicate our hope that we shall do better and indeed we might have done very much better but for certain considerations like retention of the staff, payment to the agents and this and that. All those encumbrances of the latter kind, that is to say contractual encumbrances that we have, might come in the way of our reducing it as much as we could. But, as a token of our *bona fides* I am prepared to put in that in sub-clause (2).

Shri N. C. Chatterjee: That is what I suggested.

1 P.M.

Shri C. D. Deshmukh: Certainly, I am prepared to do that. If you will permit me....

Shri N. C. Chatterjee: If you will kindly permit me, I shall move the following amendment.

I beg to move :

Page 19, line 17—
after "40A" insert "40B".

Mr. Speaker: Amendment moved:

Page 19, line 17—
after "40A" insert "40B".

Shri C. D. Deshmukh: I accept that amendment, if you would permit me.

Then, I deal with sections 35, 36 and 37. It is our understanding that there are two sides to a transfer, that is to say, the transferor and transferee. What we thought was that while the corporation would not want to transfer its business to anyone else, it might want to accept the transfer of business. I

made that remark in connection with certain general insurance business, the question of which was raised by the hon. Member, and I thought that a provision of this kind would cover the cases of companies under administration. Take, for instance, the company I mentioned the other day, namely the Jupiter. It may be that there might be some arrangement which might come on within the purview of sections 35, 36 and 37 in regard to such companies, and that is why we have retained that power there.

Now, I come to section 40. This section prohibits the payment of remuneration in the form of commission to persons other than an insurance agent, special agent or chief agent. As we know, the chief agents and special agents would not probably figure in the picture now and therefore some modification of section 40 will be necessary. That is why we have put in the place where you find it.

Similarly, section 40A limits the commission payable to insurance agents. Under the corporation, agency terms may be rationalised, and that is why this has to be applied with modification. This is an answer to the hon. Member's plea that we move this from sub-clause (2) to sub-clause (1). I feel that it is safer to allow us a little latitude in considering this. If hon. Members will only give us some credit for *bona fides* in this matter, then I do not think they would make too much of a case as to whether anything is included in sub-clause (1) or sub-clause (2) or at the worst in sub-clause (3).

Shri Sadhan Gupta: How is section 40A a hindrance? It only prescribes the maximum commission.

Shri C. D. Deshmukh: But we have not removed it.

Mr. Speaker: Section 40A is there. In addition, there will be section 40B also.

Shri Sadhan Gupta: Section 40A prescribes the maximum commission payable to agents.

Shri C. D. Deshmukh: We wish to modify that maximum.

Shri N. C. Chatterjee: That is a limitation clause.

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Shri C. D. Deshmukh: Section 44 confers an important right on the agents. It provides that if an agent had introduced a certain amount of business or had worked for a certain period of time, his renewal commission shall not be forfeited even if he ceases to be an agent. It also provides that such commission shall be hereditary. There is no intention, I repeat, to take away this accrued right of insurance agents, and it is therefore proposed to apply this section. However, some modification, we feel, will be necessary to permit introduction of fresh terms in respect of the future. That is why we cannot accept it as it stands in the Act. That is in regard to section 44.

Then I come to section 113. That section requires that every policy of insurance must contain certain non-forfeiture privileges. These privileges, we recognise, are exceedingly valuable, and it is proposed to apply these provisions of the Act. But from the experience of the Insurance Act that we have gained, it appears to us that some modifications are necessary in this section to make these provisions more elastic, and it is therefore proposed to apply this section with modification. It is a very small difference if we want to put it in sub-clause (1) or sub-clause (2).

Now I have to deal with two points of procedure, which the hon. Member raised. I think he had moved amendment No. 125....

Shri Sadhan Gupta: I have not moved amendment No. 125. I have moved amendment No. 126.

Shri C. D. Deshmukh: I am sorry; it is amendment No. 126. The clause as it stands empowers the Parliament to make any modification in the notifications. The hon. Member wants to provide that Parliament will have the power to annul the notification. I am advised that the expression 'modification' includes annihilation, that is to say, annulment, and therefore there is no need to accept this amendment.

Shri Sadhan Gupta: Will the Finance Minister clarify another matter which I forgot to mention? I find that section 2 has also been applied. That section of the Insurance Act has been applied automatically.

Shri N. C. Chatterjee: That is the definition section.

Shri Sadhan Gupta: Section 2 is the definition section, and it defines certain words which are also defined here and defined differently. What is the use of applying section 2 because that way it may cause confusion? And further in sub-clause 10 of clause 2 of the present Bill, the definitions given in the Insurance Act have been applied, where those expressions are not defined in this Bill. Therefore, I should think that sub-clause 10 of clause 2 is a better provision than section 2 being applied which might cause all sorts of complications. Therefore, would the Finance Minister agree to delete section 2 from the list?

Shri C. D. Deshmukh: I confess I have not carried out a complete comparison of the whole thing.

Mr. Speaker: My fear is that without a substantive section, clause 43 which includes in sub-clause (1), section 2 dealing with definitions, alone would not be useful. Sub-clause 10 of clause 2 reads :

“all other words and expressions used herein but not defined and defined in the Insurance Act shall have the meanings respectively assigned to them in that Act.”

Shri C. D. Deshmukh: The hon. Member's point is that everything that occurs in section 2 of the Insurance Act also is defined in . . .

Mr. Speaker: There is no harm. After all, the one is a substantive section.

Shri Sadhan Gupta: The harm is there. For instance, in section 2 of the Insurance Act, 'insurer' is defined in one way. In this Bill, it is defined in another way. So, if you say that section 2 shall apply . . .

Mr. Speaker: That means subject to sub-clause 10 of clause 2.

Shri Sadhan Gupta: That is not stated. It is a better way of putting that all other words . . .

Mr. Speaker: In this Act, unless the context otherwise requires,

“all other words and expressions used herein but not defined and defined in the Insurance Act shall have the meanings respectively assigned to them in that Act.”

Shri N. C. Chatterjee: I am afraid that section 2 shall have to remain. If you kindly look at section 2, you will find that it defines such terms as 'policy-holder', 'approved securities', 'auditor', 'banking company', 'Controller of Insurance', and so on. So, unless that section is applied, there will be a hiatus, and we do not know how the whole thing will work.

Shri Sadhan Gupta: All these definitions will come under sub-clause 10 of clause 2 of this Bill.

Shri N. C. Chatterjee: The wording here is :

“all other words and expressions used herein but not defined and defined in the Insurance Act shall have the meanings . . .”.

Supposing there is no such word as 'approved securities', then what will happen? There will be a hiatus.

Mr. Speaker: What he means is this. If any word is used in this Act, and if it has not been defined here, then we shall have to look for its definition in section 2 of the Insurance Act. Even in sub-clause 10 of clause 2, it is only said :

“all other words and expressions used herein but not defined and defined in the Insurance Act shall have the meanings respectively assigned to them in that Act”.

That is to say, for the other words which have been used in this Act, but have not been defined in this Act, we have to get their definitions from the Insurance Act.

In clause 43, we find :

“The following sections of the Insurance Act shall, so far as may be, apply to the Corporation . . .”.

So, these two are complementary and supplementary to each other. It is better to have section 2 here.

Shri C. D. Deshmukh: It is both for residual provision as well as for applications so far as may be. That is to say, wherever there is an instance as pointed out by the hon. Member, when you are dealing with an insurer, the definition under this Act will apply. But if there is nothing in this Act, the definition in the other Act will apply. It is,

as you say, supplementary and complementary. You will also draw on the definitions in the other Act. Therefore, I think it is safer to have both.

Pandit Thakur Das Bhargava (Gurgaon) : This is exactly the meaning of sub-clause (10). If anything is defined here, that meaning shall be given. If you have not defined it in this Act, the meaning given in the other Act, shall be applicable to this Act. Therefore, reference to section 2 is unnecessary. Sub-clause (10) of clause 2, by itself, secures the very thing which the hon. Member has in mind.

Mr. Speaker: What Shri Sadhan Gupta says is that if the same expression is used in both the Acts and there is a definition in clause 2 of the principal Act which differs from the definition given in this Act, which will prevail. But I find that there is no conflict, because it will have the meaning as defined in this Act; if it is not defined in this Act, it will have the meaning as defined in the other Act.

Pandit Thakur Das Bhargava: Therefore, this reference to section 2 is unnecessary because sub-clause (10) of clause 2 is very specific. Either the meanings are given in this Act or the words are not defined here. Sub-clause (10) makes the position quite complete.

Mr. Speaker: Possibly there may be some words and expressions which are not used here, but may be defined only in the other Act.

Pandit Thakur Das Bhargava: Then those meanings shall be applicable. Therefore, reference to section 2 is unnecessary.

Mr. Speaker: I shall now put the Government amendments to the vote of the House.

The question is :

Page 19, line 16—

after the figure "25" insert "27A, 28A".

The motion was adopted.

Mr. Speaker: The question is:

Page 19, line 21—

for "conditions or modifications", substitute "conditions and modifications".

The motion was adopted.

Mr. Speaker: The question is:

Page 19, line 17—

after "40A" insert "40B"

The motion was adopted.

Mr. Speaker: In view of the adoption of these amendments, Shri Tulsidas's amendments need not be put. I shall now put all the other amendments relating to this clause to the vote of the House.

The question is :

Page 19—

for lines 9 and 10, substitute :

"Sections 2B, 3, 18, 26, 33, 38, 39, sub-section (1) of section 40A, sections 41, 44, 45, 46, 47A, 50, 51, 52, 110A, 110B, 110C, 113, 119, 121, 122 and 123."

The motion was negated.

Mr. Speaker: The question is:

Page 19, line 16—

omit "35, 36, 37".

The motion was negated.

Mr. Speaker: The question is:

Page 19, line 17—

omit "113".

The motion was negated.

Mr. Speaker: The question is:

Page 19, lines 25 and 26—

after "subject to" insert "annulment or".

The motion was negated.

Mr. Speaker: The question is:

"That clause 43, as amended, stands part of the Bill".

The motion was adopted.

Clause 43, as amended, was added to the Bill.

Clauses 16, 35, 36 and the Schedules

Mr. Speaker: Clauses 16, 35 and 36 are connected with the Schedules. The amendments relating to these may be moved.

Pandit Thakur Das Bhargava: I beg to move:

(i) Page 24—

after line 2, add :

“Provided that in the case of displaced insurers relevant actuarial investigations shall mean the last valuation only.”

(ii) Page 24—

after line 2, add :

“Provided that in the case of displaced insurers half of the sum resulting from the addition of the four items given in paragraph 5 shall be added to the first of the two relevant actuarial investigations mentioned in the Explanation.”

Shri Tulsidas : I beg to move:

(i) Page 23—

for lines 14 to 23, substitute:

“Paragraph 1.—Twenty times the annual average of the share of the surplus allocated to shareholders as disclosed in the abstracts aforesaid in respect of the last actuarial investigation multiplied by a figure which represents the proportion that the business in force during the calendar year 1955 bears to the average business in force during the calendar years comprised in the period for which the last actuarial investigation was made.”

(ii) Page 23, line 18—

for “1950” substitute “1953”.

(iii) Pages 23 and 24—

omit lines 32 to 37 and 1 and 2 respectively.

(iv) Page 24, lines 7 to 10—

omit “where an insurer has allocated to shareholders more than 5 per cent. of any such surplus as is referred to therein, the insurer shall be deemed to have allocated only 5 per cent. of the surplus and”.

(v) Page 24, line 8—

for “5 per cent” substitute :
6½ per cent”.

(vi) Page 24, line 11—

for “allocated any such surplus to shareholders” substitute:

“allocated to shareholders any such surplus as is referred to therein”.

(vii) Page 12—

for lines 1 to 8, substitute :

“(2) The amount of the compensation to be given under sub-section (1) above, shall, in the first instance, be determined by the Corporation in accordance with the aforesaid principles, and if the amount so determined is approved by the Central Government, it shall be paid to the insurer without prejudice to his rights under sub-section (3) below, with interest at three and a half per cent. from the 19th January, 1956, till the date of payment and that such payment shall be made before the 31st December, 1956.

(3) If such payment is not acceptable to the insurer in full satisfaction of the compensation payable to him under this Act, he may within such time as may be prescribed for the purpose have the matter referred to the Tribunal for decision; and where the Tribunal orders to be paid to the insurer any sum in addition to the principal sum paid to him under sub-section (2) above, such sum shall be paid within one month of the date of the order of the Tribunal together with interest on it at three and a half per cent. from the 19th January, 1956, till the date of payment.”

Shri Sadhan Gupta: I beg to move:

(i) Pages 23 to 26—

for Part A substitute :

“Part A

The compensation to be given by the Corporation to an insurer having a share capital on which dividend or bonus is payable, who has allocated as bonus to policy-holders the whole or any part of the surplus as disclosed in the abstracts prepared in accordance with Part II of the fourth Schedule to the Insurance Act in respect of the last actuarial investigation relating to his controlled business as at a date earlier than the 1st day of January, 1955, shall be ten times the share of the surplus so disclosed which was allocated to shareholders.

Explanation 1.—Where no share of the surplus so disclosed was allocated to shareholders or where the share allocated was below 3½ per cent. the share

allocated shall be deemed to be 3½ per cent.

Explanation 2.—An insurer incorporated outside India shall be deemed to have allocated to shareholders the same percentage of the surplus as disclosed in the abstracts prepared in accordance with Part II of the Fourth Schedule to the insurance Act in respect of the last actuarial investigation as at a date earlier than the 1st day of January, 1955, as the percentage of the surplus in respect of the world business of the insurer as ascertained with reference to the last actuarial investigation relating to such business as at a date earlier than the 1st day of January, 1955 which is allocated to shareholders, such percentage being computed subject to the provisions of explanation I and any amount in excess of 7½ per cent. being ignored:

Provided that in the case of any such insurer in respect of whom an order has been made under section 35, the amount computed as follows shall be deemed to be the surplus:—

(a) there shall be deducted from the surplus as disclosed in the abstracts aforesaid, interest at 3½ per cent. per annum for one year calculated on the assets specified in any order made under sub-section (2) of section 35;

(b) with respect to the balance arrived at under clause (a), there shall be computed an amount that bears the same proportion to the said balance as the liability on policies appertaining to the controlled business of the insurer, other than those expressed in any foreign currency issued on the lives of persons who are not citizens of India, bears to the liability in respect of all policies appertaining to such business, the liabilities on policies being computed as the 31st day of December, 1955, in accordance with the provisions contained in clause (b) of the Second Schedule:

Provided further that—

(a) in any case where the order made under section 35 is with reference to sub-section (2) only, the preceding proviso shall have effect as if clause (b) had been omitted therefrom; and

(b) in any case where the order made under section 35 is with reference to sub-section (3) only, the preceding proviso shall have effect as if—

(i) clause (a) had been omitted:

(ii) in clause (b), the words, brackets and letter “with respect to the balance arrived at under clause (a)” had been omitted; for the words “the said balance” the words “the surplus” had been substituted; and for the words, brackets and letter “with the provision of clause (b) of”, the words and letter “with method A specified in” had been substituted.

Explanation 3.—Where an insurer is an insurer incorporated outside India whose paid-up capital is outside India, the provision contained in this part shall have effect as if a sum equal to that part of the paid-up capital of the insurer as determined by the Central Government to be allocated to the controlled business of the insurer had been deducted from the surplus of the share which is allocated or deemed to have been allocated in accordance with the provisions of this part.”

(ii) Page 23—

for lines 5 to 30 substitute:

“The compensation to be given by the Corporation to an insurer having a share capital on which dividend or bonus is payable, who has allocated as bonus to policy-holders the whole or any part of the surplus as disclosed in the abstracts prepared in accordance with part II of the Fourth Schedule to the Insurance Act in respect of the last actuarial investigation relating to his controlled business as at a date earlier than the 1st day of January, 1955, shall be ten times the annual average of the share of the surplus allocated to shareholders as disclosed in the abstracts aforesaid in respect of the relevant actuarial investigations multiplied by a figure which represents the proportion that the average business in force during the calendar years 1950 to 1955 bears to the average business in force during the calendar years comprised in the period between the date as at which the actuarial investigation immediately preceding the earliest of the relevant actuarial investigations was made and the date as at which the last of such investigations was made.”

(iii) Page 23, line 13—

omit “or paragraph 2, whichever is more advantageous to the insurer.”

(iv) Page 23, line 14—

for “Twenty times” substitute “Ten times”.

[Shri Sadhan Gupta]

(v) 23, lines 16 to 23—

omit "multiplied by a figure which represents the proportion that the average business in force during the calendar years 1950 to 1955 bears to the average business in force during the calendar years comprised in the period between the date as at which the actuarial investigation immediately preceding the earliest of the relevant actuarial investigations was made and the date as at which the last of such investigations was made."

(vi) Page 24—

omit lines 3 to 6.

(vii) Page 23—

omit lines 24 to 30.

(viii) Page 23, line 31—

for "paragraph 1" *substitute* "this part".

(ix) Page 24, line 4—

for "(including any bonus)" *substitute* "excluding all bonuses".

(x) Page 24, line 7—

for "paragraph 1" *substitute* "this part".

(xi) Page 24—

(i) line 8—

for "5 per cent." *substitute* "4 per cent."

(ii) line 10—

for "5 per cent." *substitute* "4 per cent."

(xii) Page 24—

(i) line 12—

for "3½ per cent" *substitute* "3 per cent".

(ii) line 13—

for "3½ per cent" *substitute* "3 per cent".

(xiii) Page 24, line 17—

for "paragraph 1" *substitute* "this part".

(xiv) Page 25, line 31—

for "paragraph 1" *substitute* "this part".

(xv) Page 25, line 35—

for "were inserted at the end of that paragraph and" *substitute*:

"were inserted before explanation 1 of this part and immediately after the words "and the date as at which the last of such investigations was made".

(xvi) Pages 25 and 26—

omit lines 36 to 39 and 1 to 5 respectively.

(xvii) Page 18—

after line 3, *add* :

"Provided further that nothing contained in this section shall affect the right of any special agent to any overriding commission in respect of business procured by him through insurance agents till immediately before the appointed day, if and when the payment of the annual premium in respect of such business is completed."

Shri C. D. Deshmukh: I beg to move:

Page 27—

after line 26 *add* :

"Paragraph 5.—If the insurer to whom compensation is to be given under this Part is a displaced insurer, the compensation to be given shall be computed in accordance with the following provisions :—

Firstly, there shall be ascertained the losses incurred by the displaced insurer in respect of claims arising by deaths established by the displaced insurer to have been caused by the civil disturbances which took place on the occasion of the setting up of the Dominions of India and Pakistan, the total loss being taken as the difference between the amounts paid as claims in respect of such deaths and the total amount of the actuarial reserve in respect of the relevant policies;

Secondly, there shall be ascertained the difference between the market value as at the 15th day of August, 1947 of any immovable property in West Pakistan belonging to the displaced insurer and the market value thereof determined under Paragraph 3 of this Part, or, where any such immovable property has been sold before the 19th day of January, 1956, the difference between the market value thereof as at the 15th day of August, 1947, and the sale price;

Thirdly, there shall be ascertained the amount of deposits held by the displaced insurer in banks which could not be withdrawn on account of a moratorium declared under any law for the time being in force, to the extent to which such deposits have become losses;

Fourthly, there shall be ascertained the difference between the market value as at the 15th day of August, 1947, of any shares in any company now carrying on business in West Pakistan held by the displaced insurer and which had been acquired before the 15th day of August, 1947, and the market value of such shares as at the 19th day of January, 1956.

The amount of compensation to be given to the displaced insurer under this Part shall be—

(a) the amount which would have to be given to him if this Paragraph had not been enacted, plus

(b) an amount which represents one half of the difference between the compensation which would have to be given to him if to the value of the assets referred to in Paragraph 3 there had been added the sum of the four items referred to in this Paragraph and with respect to the liabilities referred to in Paragraph (4), the life insurance fund had been increased by a like sum, and the compensation which would have to be given to him if this Paragraph had not been enacted,

or

one half of the paid-up capital of the displaced insurer whichever is less.

Explanation.—For the purposes of this Paragraph 'displaced insurer' means an insurance company whose registered office during any part of the year 1947 was in any area now forming part of west Pakistan and whose registered office is now in India."

Pandit Thakur Das Bhargava: I beg to move:

That in the amendment proposed by Shri C. D. Deshmukh—

(i) *Before the Explanation omit:*
"or

one half of the paid-up capital of the displaced insurer whichever is less";

(ii) in part (6) for "less" substitute "more."

Shri Keshavaienger (Bangalore North): I beg to move:

(i) Page 30—

after line 10, add:

"Provided that the chief agent shall have the option of payment of a lump sum amount of seven times the overriding commission on renewal premiums earned by him in the year immediately previous to the appointed day."

(ii) Page 30, line 10—

for "annually" substitute:

"to him or his nominees monthly".

(iii) Page 30, line 10—

add at the end:

"and also a lump sum amount comprising of ten times the overriding commission on the fresh business introduced by the said chief agent in one year immediately preceding the appointed day."

Shri S. V. Ramaswamy (Salem): I beg to move:

Page 27—

after line 36 add:

"Part D

The compensation to be given by the Corporation to an insurer of less than twenty years standing or having only a business of less than three crores shall be—

(1) Twenty times the annual average of the share of the surplus of 7½ per cent. allocated to the shareholders in their latest valuation; or

(2) on the basis of treating their business as on 19th January, 1956 as a closed business by taking over enough assets to meet the policy-holder's liability by an actuarial valuation, the principle of which is to be determined by the corporation and accepted by the company and leaving the balance of the assets, if any, with the company for the benefit of the shareholders, whichever is more advantageous to the insurer."

Mr. Speaker: All these amendments are now before the House.

Shri Tulsidas: First of all, I shall refer to amendment No. 13 to clause 16. This clause provides for the determination of compensation by the Corporation. My amendment provides that the compensation, as determined, shall be paid, and if it is not acceptable, the dispute shall be referred to the Tribunal. It also provides for payment of interest at 3½ per cent. on the sum payable from the 19th January 1956 till the date of payment. It also puts a time-limit within which the payment should be made. My amendment also provides that the reference to the Tribunal should only be in respect of any balance of compensation, and the balance, if any, shall be paid within the time-limit with interest.

Insurers have been deprived of their business since the 19th January 1956. This Bill lays down the principles on which compensation should be determined. It is essential that this process is expedited, and that compensation should be determined as soon as possible. We have already provided for Government's sanction to the Corporation's estimates. There should be no dilatoriness in this respect, as happens in most cases with Government. It is not fair that they should take away the business with the utmost promptness and when it comes to paying for it, they should take their own time. I, therefore, suggest that payment should be made before the 31st December 1956, and want to see that it should bear interest at 3½ per cent. from the date of taking over (19th January 1956) to the date of payment.

I may mention one thing here. The Bill provides for offer of compensation and this offer is acceptable only in full satisfaction of compensation. This, I think, needs modification. The principles on which compensation is to be determined are laid down by law. If there is a dispute, it is a justiciable dispute. The Bill already provides for appeal to the Tribunal. Is it then fair to penalise the appellant by providing that he shall not receive compensation till the Tribunal decides? There is no dispute regarding the amount determined by the Corporation; the dispute is only about possible excess.

Why then provide for the sum so determined? I would urge that the sum determined by the Corporation should just now be paid to the insurer and in

case of disputes regarding excess, that point alone should be referred to the tribunal. If the tribunal orders anything to be paid, such amount should be paid within one month of the order with interest from the 19th January 1956 till the date of payment.

I would like to add one more point. As soon as nationalisation was ordered, bonds were issued which had interest accruing from that date. When the business of the company had been taken over from the 19th January 1956, the interest would accrue to the companies from that day. That is the point which I am making and have made in accordance with my amendment. I suggest that if there is a dispute, it can be referred to the tribunal.

I will refer now to the schedule. I find in the House an atmosphere that compensation has been paid more lavishly or it has been paid more than what the companies are entitled to. The hon. Finance Minister has rightly put forward his view that compensation is not in fact generous and that he considers it to be fair. I only hope that the House would realise the work of this industry. Soon after we had our Independence, there was the question of partition and then difficulties arose. Before Independence, a very large portion of the business was in the hands of foreign companies; soon after Independence, for two years the Indian companies had to suffer in a bad way due to partition. Until 1950 there was no stability with regard to increasing the business. In 1956 when this industry was taken over, 80 per cent. or more than 80 per cent. of the business in India is conducted by Indian insurance companies, and not foreign companies. The record of this industry, in my opinion, is a very wonderful one in spite of whatever things other people may have to say against it. These Indian companies have largely increased the business in five years; in the last year alone, the business increased to a considerable extent. I only hope that the Corporation would try to increase the business to such an extent as it had been possible to increase for all the companies put together. As regards compensation, as you took over the companies' business on the 19th January 1956, at least they are entitled to get their compensation on the day their business was taken over. But here the schedule says "the average of the last

two valuations", which means from the year 1950 to 1955 inclusive. It means that you take the value on the basis of the year 1952 and not on the basis of 1955, if you take the average for the last six years. As I explained to you, the record of this industry is really one of the best in this country and yet you pay the compensation three years behind, that is, valued on the basis of the year 1952 and not 1955. Is it fair?

The only thing that the Select Committee has done is to include the year 1955, but the average is still being kept up on the basis of the year 1952. I should like the Finance Minister to take into consideration the fact that this industry as a whole has done their job in a wonderful way and that, therefore, the industry should be compensated on the basis of the value on the day it was taken over.

Let me submit another point. If you see the records of the valuation and the experience of how the valuation has been done, and also what is taken into consideration before fixing the premium and the bonus, there has always been a margin of 20 per cent. in what they had already provided. This margin has not been taken into consideration, because the valuation which has to be done in 1955 is to be done on the basis of the previous valuation and increasing it on the basis of the further business done. Here again, there is a safety margin of 20 per cent. in the valuation. That again these companies do not get now. I am not saying that you pay them full, but you do not pay them even according to what the companies have been able to get in the way of surpluses or have been able to get in the way of a certain amount of business on the basis of their experience.

There is a feeling in this House that whenever the question of compensation is taken up, there are only 10 or 20 people in the country who will get it. But there are 50,000 or 60,000 shareholders who get this compensation and not 20 people. I do not see any difference between a shareholder of a company and a worker of the company which my hon. friends on my right always make.

Shri Nambiar (Mayuram): There is a world of difference.

Shri Tulsidas: The very worker in an insurance company is also a shareholder; the hon. Member does not realise that. The worker in an insurance company is a shareholder as well; the workers in the banking companies and other companies are shareholders of the companies.

Mr. Speaker: Does he mean mutual companies or proprietary companies?

Shri Tulsidas: Not mutual companies. The surplus goes to the policyholders. In the ordinary shareholding companies, the shareholders are the common people who hold a considerable percentage. In New India, for example, there are more than 15,000 shareholders who hold more than 50 to 60 per cent. of the shares. Is it not possible for a worker in a banking concern or an insurance concern to have a saving of Rs. 200 a year, with which he can hold four or five shares in the company?

The Oriental is always quoted as an example for the figure of Rs. 8,000 to be paid to the shareholder. As the Finance Minister himself realises, the Oriental was started about 70 or 75 years back. A year back the Oriental was wanting to make a mutualised company and pay compensation to the shareholders. According to the valuation done by the actuaries, the shareholder would have got Rs. 8,000 one year back. What is the compensation that they will get now?

Shri Nambiar: That is why it was not permitted by the Government.

Shri Tulsidas: The Government did not want it because then nationalisation came up. But if there was no question of nationalisation, they would have decided to give Rs. 8,000 to the shareholder. That was the value. Under the present scheme, the shareholder might get Rs. 4,400, according to the Finance Minister. My hon. friend, the Minister of Revenue and Civil Expenditure, usually says that he is always the representative of the labourer and the worker and, therefore, he is not interested to pay us. He is always interested to bring out malpractices, but he does not realise that it would recoil on his work as well.

The Deputy Minister of Finance (Shri B. R. Bhagat): A section of the House says that.

Shri Tulsidas: I am glad the other Minister has at least a sense of fairness to try to understand the point of view.

Shri Nambiar: It means that the other Minister is unfair.

Mr. Speaker: No such inference.

Shri Tulsidas: I wish to say....

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): It will be a compliment if I do not accept Shri Tulsidas's suggestions, which are always generous at the cost of others.

Shri Tulsidas: The Select Committee has increased the figure from 3 to 3½ per cent. and very few companies are going to benefit. The Oriental could still get the benefit because it has still been allocating about 3·88 per cent. Under the Insurance Act, out of the surplus valuation, the company can give its shareholders 7½ per cent. 92½ per cent. belongs to the policy-holders. The Oriental allocated, on their valuation in both 1951 and 1954, 3·8 per cent. and they will be getting on the basis of 3·8 per cent. That is the largest amount of compensation that this company will be able to get. Most of the other companies have been allocating 7·5 per cent. Before the 1950 amendment, according to the Insurance Act, it was 10 per cent. In other countries, the allocation was to the extent of 10 per cent. What has the Select Committee done? It has reduced it from 7½ per cent. to 5 per cent. The funny part of it is that even this Corporation which they are providing will be entitled to get 5 per cent. of the surplus of those companies which have been working for all these years. They have been given valuation on the basis of the position in 1952. The safety margin of 20 per cent. which has been there has not been taken into consideration. Although the companies have been getting 7½ per cent. till now, the Corporation or the Government does not agree to that figure now. Is it fair? The hon. Finance Minister said yesterday that he wants to be fair and not overgenerous. I do not want him to be overgenerous; I only want him to be fair. We are not paying the companies on the basis of the present valuation of the companies. We are only capitalising to the extent of the earning of the company. The reserve funds of the company, whatever they may be, will be taken over by the Corporation. This Corporation also will be

getting 5 per cent. of the surplus. Therefore, whatever compensation is paid will be paid from the very funds of these companies. Within a short space of time, the Corporation will be able to get all the compensation which it has paid from the funds which they take over from the companies. It is not the Government funds or the public funds which will be paid to these companies.

Shri Nambiar: From the share capital, they cannot meet it.

Shri Tulsidas: The Corporation is also entitled to take 5 per cent. of the surplus and this will continue in future years also. So, within 5 or 7 years it will get back all the amount that it is now paying as compensation to the companies.

The other point that the Finance Minister has been kind enough to consider is the question of displaced companies. I am glad that he is going to bring an amendment also in this respect. I do not know what are the points which will be taken into consideration. I have got a case here in which the company alone has got claims for about Rs. 80 lakhs for the property they have lost in Pakistan, for which they have put in a claim. I do not know to what extent that loss will be made up....

Pandit Thakur Das Bhargava: Apart from that, the amendment No. 209 applies not to such companies, but to those companies which come under Part B.

Shri Tulsidas: I would like the Finance Minister to consider this aspect. You are taking over a going business, a first class type of business, and therefore, you have to pay compensation at least to those companies who have lost assets in Pakistan. The Government is bound to get back those amounts from Pakistan and therefore the companies also must be paid compensation for this loss. I would like him to consider this aspect not in an overgenerous way, but only in a fair way. The valuation is to be done on the basis of position in 1952 and not 1955, the day when they are taking over.

I have given two alternative suggestions in my amendments Nos. 40 to 45. My amendment No. 41 is alternate to amendments Nos. 40 and 42. If the Finance Minister does not want to give on

the basis of the position at the end of 1955, instead of having 6 years' average make it 3 years' average—1953, 1954 and 1955. I would much prefer the acceptance of amendments Nos. 40 and 42, but if he does not want to do it, I am agreeable to three years' average being taken.

Shri Nambiar: What will be the amount involved if your amendment is accepted?

Shri Tulsidas: I do not know, but . .

Shri Nambiar: We have to pay from the Exchequer three crores of rupees more.

Shri Tulsidas: Whatever amounts you pay will be recovered by the Corporation from the surplus which it will be getting in future years.

My amendment No. 44 says "6½ per cent" instead of "5 per cent". For those companies which have not given any allocation, you are prepared to give up to 3½ per cent. For those companies which have given up to 7½ per cent allocation, you want to reduce it to 5 per cent. I am trying to effect a compromise by amendment No. 44 and put 6½ per cent.

I would like the Finance Minister to consider all these points which I have mentioned. I hope he will not become dogmatic. He has said that he wants to be fair. I also do not want him to be overgenerous, but only to be fair in considering the points I have raised.

Shri Sadhan Gupta: I very much regret that the Finance Minister has thrown out a suggestion that the compensation is fair though not generous. I shall try to show, as I proceed, that from the point of view of society, the compensation is certainly not only generous, but it is unconscionably overgenerous. I will try to show that from the point of view of society, it is generously unfair.

Before, I do that, let me try to meet the claimants for compensation on their own grounds. They claim compensation because they claim the exclusive credit for developing the insurance business. If we look at the way in which the insurance business has developed, the kind of thing that was taking place due to mal-competition between the insurers

and the large lapse ratio, is unprecedented. Malpractices, even of the criminal kind of misappropriation of certain funds, and malpractices which perhaps they do not consider to be malpractices, namely, the diversion of funds to the undertakings in which the authorities of the insurance companies are interested, are rampant in the business. When we are considering all that, the operation of the Indian insurers reveals a very sorry state of affairs and it certainly does not deserve any credit for developing the business.

There is also another side to it. All the credit for the good business they have done does not go to them. For quite a time past substantial tax reliefs, income-tax reliefs, have been granted in respect of premium paid. That has had a considerable influence in inflating their business. Then, for the last five or six years we have been incurring heavy public expenditure in connection with many activities. The result of the public expenditure may not have led to the benefit of all classes of people in this country, but it is undeniable that it did have some effect in raising the incomes of certain sections of the people and from that too the life insurance concerns had benefited. Then again, the rise in the bank rates had raised their interest earnings. All that windfall they have had without any effort on their part and due to extraneous circumstances. Therefore, if they claim credit for the whole growth of business, it is a very undeserved claim and it should not be entertained. If compensation is to be paid on the basis of the contribution to the growth of insurance business, certainly the State which has contributed to it by measures, direct as well as indirect, is entitled to a part of it; that is to say, it is entitled to retain a part of the money which the insurers claim by way of compensation.

Not only that. The insurers in India have also built up their business partly at the expense of policy-holders. It is well-known that the reserves kept by Indian insurers against policies are much lower than what are kept by foreign insurers. Sir, I understand on expert authority that, if the same kind of reserves were insisted upon in the case of Indian insurers the biggest of Indian insurers would have gone insolvent. I think the Finance Minister also will bear me out in regard to this statement. The result

[Shri Sadhan Gupta]

is that the surrender value on policies in the case of most Indian insurers, I am told, is much less than the surrender values in the case of foreign insurers to this extent that often it is even one-third of surrender values at certain stages. This shows that they have conducted business not on proper lines; they have often played ducks and drakes with the policy-holders' money and thereby enriched themselves. They have gone to the extent even of misappropriating and misapplying funds in many cases and, in any event, they have built up the profit for themselves and for the shareholders at the expenses of the policy-holders by keeping much lower reserves than are kept in many places in the world. Therefore, it is idle to say that they should get the compensation for the entire business, the entire profits they show to shareholders.

As to whether we should or should not guarantee those profits; whether we should or should not take into account those profits in calculating compensation, I shall come to later, but I want to emphasise here that even from their own point of view, the amount of compensation they claim is not justified.

Sir, the Bill proceeds on the basis that compensation should be on the capitalising or the estimated earning capacity. The calculation obviously is that a return of 5 per cent is to be assumed and on that basis 20 years earnings are to be capitalised. Now, of course, I am not going into the question whether his compensation is fair from the capitalistic point of view; what has been the growth of business recently and how the reckoning of averages fails to take into account or does take into account the recent growth of business and all that. I am not going into these matters because, from the point of view from which I look at the thing, those questions are irrelevant.

The insurers want 20 years' possible earnings as compensation. The Government wants to give 20 years' average earnings. May I put one question, Sir, to those who want to capitalise earnings at 20 years? Some insurance companies appoint bank peons. Suppose in the course of taking some money of the insurance company the bank peon is attacked by gangsters or decoits and he gets killed. He loses his earning capacity. His family is stranded. Now, suppose he was getting an income of Rs.

90 a month. Can any insurer say that he would pay the peon's family a compensation of $90 \times 12 \times 20$ —I think it comes to Rs. 21,600? If that was suggested, I am sure every insurer would say that it is preposterous. I can assure you that most of the insurance companies would be able to pay it. They are solvent enough. At least many insurance companies would be able to pay it, but they would oppose it on principle and say that it is preposterous.

Now, a worker, an employee who loses his earning capacity, whose family is deprived of his income because of something suffered in the course of employment, in his case it would be regarded as preposterous. As a matter of fact, the same kind of attitude has been adopted by our legislation. A workman gets only 3½ years under the Workmen's Compensation Act. Under the Industrial Disputes Act, a person with a service of 20 years gets only 11 months. Under this Act, when a person leaves your employment after rationalisation, he gets only three months and even less if his contract provides for less. Under those circumstances, can there be any talk of fairness in demanding compensation to 20 years. So, the best that an employee can expect is compensation or a retirement benefit of about 8 years. For example, if he is having a Provident Fund and calculating it at the highest he gets 10 per cent contribution from the company. So, if he is in service for 20 years he gets only two years' average earnings by way of Provident Fund. Then, by way of gratuity he gets only one year and eight months on a maximum and often it is only one year and three months because it is limited to 15 months. Therefore, the result is that in the case of an employee, a man who earns by the sweat of his brow would get only three years, at the most four years when he is bound to retire or lose his earning capacity. If he retires earlier and if his earning capacity is lost, he gets less. That is the position in society. Must we compensate people who have done nothing except merely to invest money at great risk? Shri Tulsidas has asked why do I make a distinction between workers and shareholders. The shareholders are workers and the workers are shareholders. Very well, but I do not agree with him entirely. It is a fact that in the case of the biggest insurance companies, people by themselves or through their family members or relatives control blocks of shares and they would get rich by that

procedure. But even if workers are shareholders owning one share or two shares, they do not depend for their livelihood on their income from the shareholdings. Their position as a worker is different from the position of a shareholder. To safeguard their position as a shareholder, to give them a reasonable chance, I have proposed certain amendments to which I shall come later. The distinction is between a person in the capacity of the service which he renders to society—whether he renders a substantial service or renders no service at all or very little service. Now, a worker's service cannot be compared to a shareholder's even if it be rendered by the same person. Therefore, some difference, and what is more, some balance must be maintained between the principles which are applicable to a worker and the principles which are applicable to a shareholder. It is this social balance that I plead for.

Now, it was said that there is no justice in this. Shri U. M. Trivedi interjected and asked why should you do injustice for the fear of paying more. It is not the fear of paying more. It is because we must stick to certain social principles. If a capitalist is not willing to pay the employee 20 times his annual earnings when he is deprived of his earnings, he has no right to claim from society 20 times his annual earnings. That is the way I look at the thing. Therefore, the question is this: what principle should we adopt for determining the compensation? I think the principles are clear. Since we cannot guarantee to every section every pie that one is supposed to be able to earn for eternity, we have to adopt some other principle, and what is that principle? It is this: compensation must not be so excessive that it is deprived of all balances as between different classes in society, placed in similar circumstances. What I say is, one kind of calculation should not apply to a worker and another kind of calculation should not apply to the capitalist.

Secondly, compensation should not be so meagre that the person receiving it would be deprived of a reasonable chance of rehabilitating himself from it. Supposing, he has been entirely dependent on it, it would be difficult for him to carry on. Therefore, I have suggested certain amendments which would be in conformity with both these principles.

What I would like most is that payment should be ten times the annual average of the business as envisaged in the previous Bill. That is to say, the previous Bill envisaged 20 times, but what I suggest is, ten times for all, whether they are governed by paragraph (1) or paragraph (2). There should be no distinction between paragraph (1) and paragraph (2). For this purpose, I have moved amendments 131, 132, 112, 133, 134, 113, 136 and 138 to 141. If you want to give more—although I would not personally agree—I would suggest ten times the annual average, taking into account the business from 1950 to 1955 according to the present scheme, that is to say, half the amount which is suggested in the present scheme, on a uniform basis without distinction between paragraph (1) and paragraph (2).

Then, I would go further. Even if this suggestion were not acceptable, I would say that you should allocate ten times the last surplus allocated. Allocate that amount and be done with it. But, to go further than this is absolutely impermissible. If you allocate ten times the last surplus which shareholders received, they get ten years' dividend. For ten years they are certain of their position. In the meanwhile, they can make shift for themselves. They are in a very much better position than an employee who is thrown out of his job. Therefore whether the shareholders are rich or poor, this would do every justice to them.

Then, I would also plead that if the present formula is being maintained, it can be done with certain modifications. Firstly, in calculating the amount of compensation, bonuses assured should not be taken into account. The amount should be calculated only on the sum assured, and therefore, I have moved amendment No. 135 for this purpose.

Further, the maximum limit of the permissible allocation for the purpose of calculating the compensation should be reduced from five per cent to four per cent and the minimum limit should be reduced to three per cent. My reasons are these. It is sought to represent that the insurers undertook great sacrifices by voluntarily limiting their allocation to below 7½ per cent. It is nothing of the kind. They were trying to attract business by giving more bonuses to policy-holders than others. That is why business came in and greater

[Shri Sadhan Gupta]

and greater business came in. As a result, what they would have gained by allocating 7½ per cent would have been less than what they gained by allocating 3·8 per cent or 4 per cent or even 3 or 2 per cent. That is why, to attract business by offering allurements to people by way of greater bonuses, they limited their allocations. It shows that the shareholders were quite satisfied with the percentage of allocations and they consider it fair to themselves. Now why should we increase the allocations? If some people allocate it at 7½ per cent, it shows that they were in a position to appropriate more money than what is considered to be fair. In big companies like the Oriental, 3·8 per cent is considered to be fair. Therefore, I suggest that the maximum limit should be placed at four per cent.

Similarly, as regards those who could not allocate much and who could not allocate more than 3 per cent, there is no reason why they should get more than 3 per cent. Even those who have allocated nothing will get 3 per cent under the formula. Those who have allocated one per cent will also get 3 per cent. Those allocating 2 per cent will get 3 per cent under my formula. There is no reason for giving them 3½ per cent, because it is, by no means certain that they would be in a position to allocate 3½ per cent in the service at any time.

Therefore, I would suggest that my amendments seeking to put in a compensation formula are accepted, or at least the maximum and the minimum limits should be reduced.

As regards compensation, I have to say that I would, if left to myself, not agree to grant compensation in the light of those amendments.

I think even that upsets the social balance. But, I am in the position of having to part with a part of my property in the face of attack by bandits. Therefore, in these circumstances, I would agree to part with more than I should normally be willing to.

2 P.M.

I have only one other matter regarding clause 36 about special agents. There is one thing regarding special agents to which I want to draw the attention of the Finance Minister. It is provided in clause 36 that the special

agents' contracts are to terminate and they can claim no rights. The special agents may have procured business through agents up to the appointed date. Normally they would be entitled to renewal commission of 15 per cent on that business. As the clause at present stands, they would not be entitled to claim even that overriding commission after the appointed day although the Corporation might have received premium in respect of that business. I think it is fair that when a special agent has procured business under the contract and the Corporation is receiving the benefit of the premium then, the special agent should be given the renewal premium which would have been due to him. Therefore, I have given notice of amendment No. 204 where I want to add at the end of clause:

"Provided further that nothing contained in this section shall affect the right of any special agent to any overriding commission in respect of business procured by him through insurance agents till immediately before the appointed day, if and when the payment of the annual premium in respect of such business is completed."

I think it would be fair to special agents to give them the right to earn commission on the business given and pay them compensation for the earnings of which they may have been deprived of by reason of termination of the contract.

पंडित ठाकुर दास भार्गव : जनाब स्पीकर साहब, आखिरी बात जो श्री साधन गुप्त ने कही है, वह काबिले तवज्जह है। उनकी राय यह है कि स्पेशल एजेंट्स (विशेष मीकताओं) को जो कुछ मिले वह उस पर मिले जो वे बाकिर दिन तक बिजनेस (कारबार) दें। यह चीज दुरुस्त है। तीसरे शेड्यूल (अनुसूची) में लिखा है कि फर्ला डेट (तिय) से फर्ला डेट तक जो काम उन्होंने किया हो, उसपर उनको कमीशन दिया जायेगा। इसे मैं मनासिब नहीं समझता हूँ। उसूल के मुताबिक जितना भी काम उन्होंने किया है उस सब पर उनको कमीशन मिलना चाहिये।

इसके इलावा जो चीफ एजेंट्स हैं उनके बारे में मैंने पहले भी झगड़ा किया था और आज भी करता हूँ कि उनको जो भी अदायगी होती है

वह उसी तरह से होती रहनी चाहिये जिस तरह से कि अब होती है। यानी जितना उनको रिन्युअल बेसिस (नवीकरण आधार) पर अब दिया जाता है और जिस तरह से दिया जाता है वैसे ही उनको मिलता रहना चाहिये न कि सालाना रकम उनको अदा की जाये। अगर ऐसा न किया गया तो उनका जो तरीका जिन्दगी है, उस पर बुरा असर पड़ेगा। ऐसा नहीं होना चाहिये कि एक साल की रकम बना कर एक साल के बाद उनको दी जाये।

चीफ एजेंट्स को जो तरीका अदायगी हो वह इस तरह का नहीं होना चाहिये कि एक साल की रकम उनको एक ही बार अदा की जाये। फर्ज कीजिये कि इस उसूल को मान लिया जाता है तो क्या भारत सरकार के जो वजीर (मंत्री) हैं, जो हमारे फ़ाइनेंस मिनिस्टर साहब (वित्त मंत्री) हैं, उनको अगर एक साल की तनख्वाह एक साल के बाद दी जायेगी तो वह इस के बारे में क्या फ़ील (अनुभव) करेंगे। ऐसा करने से उनके लिये काम करना मुश्किल हो जायेगा। इस वास्ते में चाहता हूँ कि जो पुराना तरीका चला आता है इन अदायगियों के बारे में उसी को फालो (अनुसरण) किया जाये और एक साल की रकम एक दम से न दी जाये। उससे उनके अन्दर अनईजीनेस (बेचैनी) पैदा होगी जो कि मुनासिब नहीं है।

अब मैं कुछ कम्पेंसेशन (प्रतिकर) के बारे में अर्ज करना चाहता हूँ। एमंडमेंट (संगोषण) नम्बर २०६ जो कि आनरेबल मिनिस्टर (माननीय मंत्री) साहब ने मूव (प्रस्तुत) की है उसके ऊपर भी मैंने चन्द एक एमंडमेंट्स दी हैं उनपर भी मैं अर्ज करना चाहता हूँ। जहाँ तक इस मामले में कम्पेंसेशन का सवाल है, मैं समझता हूँ कम्पेंसेशन उतना कम तो नहीं है.....

Shri U. M. Trivedi: Is there an amendment to amendment No. 209?

Pandit Thakur Das Bhargava: Yes. I have moved my two amendments to amendment No. 209.

Shri U. M. Trivedi: Does it say monthly payment?

Pandit Thakur Das Bhargava: Previously, there was another amendment in the amendment papers. That said monthly. I spoke on it two days ago.

Shri U. M. Trivedi: Do they agree to that?

पंडित ठाकुर दास भार्गव : I do not know.

मैं दो चीजों के बारे में बोलना चाहता हूँ। एक तो कम्पेंसेशन के बारे में है कि आया कम्पेंसेशन जो दी जा रही है इसके अन्दर, वह मुनासिब है या नहीं और दूसरे एमंडमेंट नम्बर २०६ जो आज नई मूव की गई है, उस पर जो मैंने अपनी एमंडमेंट्स पेश की है, उनके बारे में।

जहाँ तक कम्पेंसेशन का ताल्लुक है, मैं यह कहने को तैयार हूँ कि आम तौर पर जिन लोगों को यह डर था कि अब कम्पेंसेशन बहुत कम मिला करेगा, वह तो दुर्लभ साबित नहीं हुआ। जो कम्पेंसेशन अब दिया जा रहा है और जो कम्पेंसेशन पहले बिलों (बिधेयकों) के अन्दर दिया गया है, उससे यह साफ जाहिर होता है कि सरकार का यह मंशा तो नहीं है कि इतना कम कम्पेंसेशन दिया जाये कि उन लोगों के खदशात (आशंकायें) जिनको कि उन्होंने उस वक्त जब कांस्टीट्यूशन (संविधान) को दफा ३१ को इस हाउस (लोकसभा) में तबदील किया गया था, जाहिर किये थे वे ठीक सिद्ध हों। लेकिन ताहम में बड़े अदब से यह अर्ज करना चाहता हूँ कि जब दफा ३१ में एमंडमेंट करने की तहरीक (प्रस्ताव) इस हाउस में जेरे गौर (विचाराधीन) थी उस वक्त मैंने कहा था कि जो तरीका कम्पेंसेशन देने का हो वह ऐसा होना चाहिये कि किसी के साथ बेइनसाफी न होने पावे और ऐसी बात नहीं होनी चाहिये कि प्रीवेंसेज (शिकायतों) उससे पैदा हो जब आप सोसाइटी के कुछ मैम्बर्स (सदस्यों) से उनका हक लेते हैं स्टेट (राज्य) के लिये तो मैं कोई बजह नहीं देखता कि उस सोसायटी के मैम्बर्स को इसका पूरा मुआवजा क्यों न दिया जाये। जो इन्साफ की बात है उसे हमें करना ही होगा। जब आप सोसायटी के एक हिस्से को मजबूर करते हैं कि वह सारी सोसाइटी के लिए कुछ सैक्रिफाइस (त्याग) करे, तब क्यों आप उसके मैम्बर्स को पूरा पूरा मुआवजा नहीं देते हैं। मैं अदब से पूछना चाहता हूँ कि इस हाउस के कितने मैम्बर साहिबान अपनी जायदाद इस स्केल (मानदंड) के मुताबिक सरकार को देने के लिये तैयार होंगे? दूसरों की जायदाद के साथ खेलना बहुत आसान है। मेरी नाकिस (भद्र) राय में जब कभी सरकार किसी आदमी को कोई जायदाद ले तो सरकार को चाहिये कि ठीक ठीक और मुनासिब मुआवजा

[पंडित ठाकुर दास भार्गव]

उसको उसका अदा करे। फिर जब मुआवजा दिया जाता है तो हमारे श्री नम्बियार साहब कहते हैं कि यह जेनेरस (उदार) है। हमारे फाइनेंस मिनिस्टर साहब बड़े शौक से कहते हैं कि नहीं यह फेयर (उचित) है, यानी जो मुनासिब चीज होनी चाहिये, उसके टुकड़े कर दिये। आपको देना चाहिये था क्विड प्रो क्वो (तत् प्रति तत्) लेकिन वह आप देते नहीं हैं। लेकिन फिर जब आप कुछ देते हैं तो उसमें से स्टेजिज (अवस्थायी) निकलती हैं कि यह जेनेरस है, यह फेयर है, यह निगडली (बहुत कम) है। मैं अदब के साथ अर्ज करना चाहता हूँ कि जितना भी आप कम्पेंसेशन दें वह अगर उसके क्विड प्रो क्वो से कम हो, ईक्वेवेलेंट (समान) से कम हो तो वह सारे का सारा ही अनफेयर (अनुचित) हो जाता है। फेयर तो यह है कि जो कुछ आप उससे लेते हैं उसके बदले आप उसको पूरा दें। लेकिन ताहम में यह अर्ज कर रहा था कि दफा ३१ में जब तबदीली की गई थी उस वक्त लोगों के दिलों में कुछ डर पैदा हो गये थे जो कि हट गये मालूम होते हैं क्योंकि आप अब यह कहते हैं कि हम फेयर कम्पेंसेशन देने को तैयार हैं। लेकिन साथ ही साथ मैं इस क्रिटिसिज्म (आलोचना) को भी नहीं समझ सका कि जब लोग यह कहते हैं कि आप जेनेरसली (उदारता से) दे रहे हैं, यह कैसे जेनेरसली दिया जा रहा है। इन सब क्रिटिसिज्म को सुनने और समझने के बाद मैं यह कह सकता हूँ कि जिस हद तक आप मुआवजा दे रहे हैं, उसे जेनेरस नहीं कहा जा सकता। मैं समझता हूँ कि जो मुआवजा आप दे रहे हैं वह मुनासिब मुआवजा नहीं है, जेनेरसली देने का तो सवाल ही पैदा नहीं होता है।

अभी मैंने अपने दोस्त साधन गुप्त की तकरीर सुनी और उनकी तकरीर को सुन कर मैं थोड़ा सा हैरान रह गया। उन्होंने एक वर्कर (कार्यकर्ता) को जो मुआवजा दिया जा रहा है उसका मुकाबला एक शेयरहोल्डर (अंशधारी) को जो मुआवजा दिया जा रहा है, उससे किया है और इसके बारे में अपनी वजूहात दी हैं और साथ ही साथ यह भी कहा है कि एक वर्कर को तो आप तीन महीने की तनखाह देते हैं तो फिर क्या वजह है कि दूसरों को आप इतना ज्यादा देते हैं। मैं इसमें तफसील से नहीं जाना चाहता क्योंकि मेरे पास वक्त नहीं है। मैं चाहता हूँ कि वह इस चीज को पूरी तरह से एम्बिमिन (जांच) कर लें, क्योंकि मैं समझता

हूँ कि उनकी जो अपनी तजवीज है वह सारी बहस को नाकिस कर देती है। मैं अदब से उनसे पूछना चाहता हूँ कि जब एक तरफ से तो उन्होंने १० टाइम्स (गुना) देने को कहा है और दूसरी तरफ वर्कर्स के बास्ते थोड़ा सा बढ़ाने को कहा है, तो फिर इन दोनों में मुनासिबत कहाँ रह जाती है।

दोनों का उसूल एक ही होना चाहिये।

श्री साधन गुप्त : सर्वनाशे समुत्पन्ने अर्थम् त्यजति पंडितः।

पंडित ठाकुर दास भार्गव : इसका मतलब तो यह है कि जो पंडित अपने बैसिक (मूल) उसूलों को खुद रद्द करते हैं, they are not to be taken seriously, to say the least जो तजवीज उन्होंने खुद की, वह उन उसूलों के लिये फैंटल (घातक) है। एक राय यह है कि साढ़े सात पर सेंट (प्रतिशत) दिया जाय। कल मैंने अर्ज किया था कि साढ़े पांच पर सेंट से सवा छः पर सेंट कर दिया जाय। तुलसीदास जी ने भी कहा था। आप फरमाते हैं कि इस चार पर सेंट कर दिया जाय। आखिर इस के पीछे क्या रीजन (तर्क) है? मैं यह पूछना चाहता हूँ कि चार पर सेंट रखने के लिये क्या रीजन है? और एक पर सेंट से तीन पर सेंट करने के लिये क्या रीजन है? मैं समझता हूँ कि कोई रिजून नहीं है, बल्कि वह आरबिटरेरी (मनभानी) है और सेन्स आफ जस्टिस (न्याय बुद्धि) पर अटैंक (आघात) है। मैं अर्ज करना चाहता हूँ कि इसके लिये हमारे सामने कोई भी वजह नहीं रखी गई है। इसको आरबिटरेरी ग्राउंड्स (आधार) पर कम किया जा रहा है। जो कुछ दिया गया है, वह इतना अनफेयर नहीं है कि लोग शिकायत करना शुरू कर दें, लेकिन अगर इस को सवा छः पर सेंट कर दिया जाता, तो ज्यादा मुनासिब होता। मेरी गुजारिश है कि अब भी इस सवाल को कन्सिडर (विचार) किया जाय।

इसके अलावा उन कम्पनीज का सवाल है, जो कि डिस्प्लेड (विस्थापित) हैं उनके लिये मैंने दो दफा आप को लिदमत में अर्ज किया है कन्सिडरेशन स्टेज (विचार अवस्था) पर भी और परसों भी। मुझे इस बात की खुशी है कि आपने मेहरबानी फरमा कर उनके केस को देखा और अगेंडमेंट २०६ पेश कर दी है।

उस अर्धमैट में चन्द उसूल बयान किये गये हैं, जिनके मुताल्लिक कुछ बहस करके मैं हाउस का वक्त नहीं जाया करना चाहता हूँ। वे उसूल आप ने सोच विचार कर लिखे हैं और वे बिल्कुल ठुस्त हैं, लेकिन फिर भी उसके मुताल्लिक मेरा जरा सा एतराज है। उसमें लिखा है :

“or one-half of the paid-up capital of the displaced insurer, whichever is less.”

मैं यह गुजारिश करना चाहता हूँ कि इस हिस्से को निकाल दीजिये—वन-हाफ़ (आधा) को निकाल दीजिये। यह गैर जरूरी है। उसमें जो चार बातें लिखी गई हैं, वे बिल्कुल लाजिकल (तर्क संगत), मुनासिब और सर्कमस्टांसिज में काल्ड फ़ार (परिस्थितियों के अनुकूल) हैं। यहां पर विचएवर इज लैस (जो की कम हो) रखा गया है। उसको विचएवर इज मोर (जो की अधिक हो) कर दिया जाय। क्लास ए (वर्ग अ) को चायस (चुनाव) दिया गया है कि इनमें से जिसको चाहे पसन्द कर लो। बी क्लास वालों को यह चायस दिया जाना चाहिये। मेरे ख्याल में इस को रखने की जरूरत नहीं है। जो सेफगार्डज (परिमाण) होने चाहिये थे, पार्टीशन (विभाजन) में हुए नुकसान की वजह से जो कम्पेंशन दिया जाना चाहिये था, वह एक हाथ से आप देते हैं, लेकिन दूसरे हाथ से उसको वापिस क्यों लेते हैं? आप कमी क्यों करते हैं?

अब मैं पार्ट ए के बारे में कुछ अर्ज करना चाहता हूँ। अर्धमैट २०६ सिर्फ क्लाज बी को एप्लाई (लागू) करती है और क्लास ए का इसमें कोई जिक्र नहीं है। क्लास बी में वे कम्पनियां हैं, जिन्होंने अच्छा काम नहीं किया है। आप उनको जो देते हैं, वह मुनासिब है। वह आप पार्टीशन की वजह से उठाई गई तकलीफ के लिये देते हैं, जो कि नागहानी तौर पर उन पर आ पड़ी। लेकिन आप क्लास ए और बी में तफ़रीक कर के एक को पीनलाइज (पंडित) क्यों करते हैं? जिन्होंने एलाकेशन (बंटवारा) किया, काम बढ़ाया, बोनस दिया, उनके साथ दूसरा सलूक आप क्यों करते हैं? जिन्होंने अच्छा काम नहीं दिया, उनके साथ आप रियायत करना चाहते हैं। मेरी गुजारिश यह है कि आप क्लास ए और बी में तफ़रीक न करें। आपको चाहिये कि आप उनको यकसा बेसिस (आधार) पर रखें। आपने पैराग्राफ (कड़क) ५ में जो

चार रियायतें लिखी हैं—उनका कितना नुकसान हुआ, कितनी जायदाद रह गई और कितने हिस्से रह गये, वगैरह जो बातें लिखी हैं—उसमें क्लास ए को भी उतना ही फायदा दें। क्लास ए के लिये मेरी दो अर्धमैट्स हैं। आप मेहरबानी फरमा कर क्लास ए वालों के लिये यह रियायत कर दें कि उनके लास्ट वैल्युएशन (अन्तिम मूल्यांकन) का ख्याल रखा जायगा। मैं याद दिलाना चाहता हूँ कि वहां पर दो वैल्युएशनज हुई थीं—एक १९५१-५२ में और दूसरी १९५३-५४ में। श्री तुलसीदास ने फरमाया था कि १९५५ का जो काम था, वह ध्यान में रखा जाना चाहिये था, लेकिन वह नहीं रखा गया। बेहतर यह होता कि उसकी बिना पर सब कुछ किया जाता, लेकिन वह नहीं किया गया। पंजाब की आठ कम्पनियों में से तीन कम्पनियां क्लास बी में आती हैं और पांच क्लास ए में आती हैं। क्लास बी की कम्पनियों को जो आप देना चाहते हैं, उस पर मुझे कोई एतराज नहीं है। आप उन को जो कुछ दें, वह खुशी से दें—कम न दें। लेकिन मेरी गुजारिश यह है कि क्लास ए की कम्पनियों को कोई रियायत नहीं दी गई है। जो कम्पनियां पंजाब में काम कर रही थीं, उनकी एक तरह से बड़ी दुर्गति हुई। वे १९५७ में बड़ी बड़ी जायदाद पीछे छोड़ आईं। दो कम्पनियों ने, जो आदमी वहां मारे गये थे, उनके वारिजों को दस लाख रुपये अदा किये। यह एक बड़ा मेरिटोरियस (प्रशंसनीय) काम था। लक्ष्मी की ४२,५०,००० रुपये की जायदाद पाकिस्तान में रह गई। उनके मारगेजिज (बंधक) ५०,००० रुपये के थे। राबलपिडी इलैक्ट्रिसिटी कम्पनी में उनके दस लाख रुपये के शेयर थे। सिलेक्ट कमेटी के सामने उन्होंने ८८,६०,००० रुपये का अपना क्लेम (दावा) दिया था, जो कि पार्टीशन में उठाये गये नुकसान के बारे में था। एक और कम्पनी के ३१,१०,००० रुपये थे और तीसरी कम्पनी के २,००,००० रुपये थे, जो कि इसकी जद में आती हैं। दोनों में से एक तजवीज को मान लिया जाय। या तो यह मान लीजिये कि रेलवेट एक्चूरियल इन्वेस्टीगेशन (संगत जीवनांकिक जांच) का मतलब सिर्फ लास्ट वैल्युएशन होगा। अगर आप उनमें कोई तमीज नहीं रखना चाहते हैं, तो १९५१-५२ में हुई फस्ट वैल्युएशन को मान लीजिये, जो कि जस्ट आपटर (ठीक बाद) पार्टीशन हुई थी पर अर्धमैट २०६ में जो चार आइटम्ज (मर्दे) रखे गये हैं, उनकी रकम को आप फस्ट वैल्युएशन में शामिल कर लें, ताकि वहां की कम्पनियां और डिस्प्लेस्ड कम्पनियों में कोई तमीज बाकी न

[पंडित ठाकुरदास भार्गव]

रहे। फर्स्ट वैल्युएशन में उनको बड़ा नुकसान हुआ था। जो चार आइटम्स आप दूसरी कम्पनियों को देते हैं, वे उनको भी दे दें, ताकि फर्स्ट वैल्युएशन में हुआ उनका नुकसान पूरा हो जाय।

जहां तक क्राइटेरियन (कसीटी) का ताल्लुक है, ऑरियेंटल को हर एक हिस्से पर २०० रुपये के बजाय ४,४०० रुपये मिलेंगे मने परसों लक्ष्मी का जिक्र किया था। जिस वक्त ज्यादातर कम्पनीज फारेनर्ज (विदेशियों) के हाथों में थी, उस वक्त १९२३-२४ में—जब कि हमारी नेशनल मूवमेंट (राष्ट्रीय आन्दोलन) बहुत जोरों पर थी—पंडित मोतीलाल नेहरू ने इसको इनागोरेट (उद्घाटित) किया था और लाला लाजपत राय ने इसको बजूद में लाया था। इसको फारेन कम्पनीज के कम्प्रीटीशन (प्रतियोगिता) में काम करना पड़ा और इस ने निहायत शानदार काम किया। सारे देश में इसका तीसरा-चौथा नम्बर था। अगर वे खास बज्हात न होती, तो उस का मुआवजा भी और कम्पनियों के मुकाबले में पड़ता। जिन लोगों का इतना बिजिनेस था, अब आखिरी वक्त पर उनको इस तरह मुआवजा न दीजिये कि वे फ्रील करें। वे नेशनल लीडर्स (राष्ट्रीय नेताओं) के हुकम पर आखिरी वक्त तक वहां रहे, इसलिये उनका जो नुकसान हुआ, वह नेशनल नुकसान समझा जाना चाहिये। उसका लिहाज रखना चाहिये। इस बारे में कोई एक उसूल कबूल कीजिये।

श्री कामत (होशंगाबाद) : पंडित मोतीलाल के बेटे के जमाने में यह हो रहा है।

पंडित ठाकुर दास भार्गव : नहीं, मैं यह बात इस वजह से नहीं कहता हूँ। लेकिन मैं यह अर्ज करना चाहता हूँ कि इन कम्पनियों ने फारेन कम्पनियों के हाथों से बिजिनेस छीना और नेशनल पायंट आफ व्यू (राष्ट्रीय दृष्टिकोण) से बिजिनेस किया, इसलिये वे ज्यादा मुहक हैं। मेरी गुजारिश यह है कि इसमें दो कम्पनियों के तरीकों में डिस्टिन्गुइशमेंट (विवेक) न कीजिये। आप कहते हैं कि equality before the law, और यह भी कहते हैं कि रिच (अमीर) और पूअर (गरीब) बराबर हैं। इस हालत में जो रियायत आप दूसरी कम्पनियों को देते हैं, वही रियायत आप उन कम्पनियों को भी दीजिये, जिनकी जायदाद पाकिस्तान में रह गई और

जिनका वहां बहुत नुकसान हुआ। उन सब के साथ एक ही सलूक कीजिये और सबको एकसाँ रियायत दीजिये।

मेरी अदब से गुजारिश है कि इस में यह तरमीम की जाय और अमेंडमेंट २०६ पर यह तरमीम मंजूर फरमाई जाय।

Shri S. V. Ramaswamy: I have moved amendment No. 207 to the First Schedule.

Some Hon. Members: We cannot hear the hon. Member.

Mr. Speaker: The hon. Member may speak a little louder. His voice seems to somewhat low. There is no use complaining either of the loudspeaker system or of the hearing power of the hon. Members.

Shri S. V. Ramaswamy: In fact, I had told the mike operator also.

Mr. Speaker: He need not quarrel with the mike system. Now and then he must look up also and speak a little louder.

Shri Nambiar: He has to go to the doctor also.

Mr. Speaker: Order, order. The hon. Member may speak a little louder.

Shri S. V. Ramaswamy: Medical or surgical ?

Pandit Thakur Das Bhargava: You can engage a lawyer.

Shri S. V. Ramaswamy: The purpose of my amendment is very brief. All that I seek to do is to give a weightage in favour of companies which are young and new. This would smack of trying to introduce discrimination between company and company.

I am fortified, however, in my position, by the amendment tabled by the Minister himself, namely amendment No. 209, because the purpose of this amendment is decidedly in favour of a displaced insurer. Therefore, a distinction is now sought to be made between one type of insurer and another. I am only seeking to provide that this principle be extended in favour of small and new companies.

I may straightway say that I have no quarrel with Part A or Part B or Part C of the First Schedule. All that I seek to do is to introduce another part, namely Part D, in favour of the small and young companies. It is not as if my point of view is revolutionary.

If you will kindly look at section 40A of the Insurance Act, you will find that special weightage is sought to be given to new companies. I shall read only the relevant portion: That section reads with the limitation of expenditure on commission :

“(1) No person shall pay or contract to pay to an insurance agent, and no insurance agent shall receive or contract to receive by way of commission or remuneration in any form in respect of any policy of life insurance issued in India by an Insurer after the 31st day of December 1950, and effected through an insurance agent, an amount exceeding—

(c) in any other case, thirty-five per cent of the first year's premium, seven and a half per cent of the second and third year's renewal premium, and thereafter five per cent of each renewal premium, payable on the policy :

Provided that in a case referred to in clause (c), an insurer, during the first ten years of his business, may pay to an insurance agent, and an insurance agent may receive from such an insurer, forty per cent of the first year's premium payable on the policy.”

Similarly in sub-section (2), a differentiation is sought to be made in favour of young companies and growing companies, so that they might grow. In rule 17D of the Insurance Rules also, we find:

“After the 31st day of December 1950, no insurer shall, in respect of the life insurance business transacted by him in India, spend as expenses of management in any calendar year an amount exceeding the aggregate sum of—

(v) an amount computed on the basis of the percentages for the time being appropriate to the

duration of the insurer's life insurance business specified in the following table, namely:—...”

Then, there is a table giving the figures of percentages of premiums, received during the year, for the first four years, then from the fifth to the seventh years, and so on. Then, the different categories are mentioned. From this, it will be clear that the percentages of premiums received during the year are also differentiated.

I am seeking, on the basis of the Insurance Act, the Insurance Rules, and thirdly on the basis of the amendment moved by the Finance Minister himself to extend this differentiation in favour of the companies that have been recently formed.

The First Schedule has been divided into three parts, and these parts lay down a uniform rule applicable to all companies, irrespective of the fact whether they are old or whether they are big companies. But I find—I do not vouch for the figures, but a friend of mine who is doing some insurance business has worked out the figures—from the figures that by applying this flat rule, there will be grave disparity in the compensation that will have to be paid. In the case of the Orientals, the share capital is Rs. 6 lakhs. They have been paying a dividend of 87 per cent, and yet I understand that on the basis of the First Schedule, they will get Rs. 1.50 crores. In the case of the Industrial Prudentials, the capital is only Rs. 2,19,000; they have been paying a dividend of 21 per cent, and they will get Rs. 1 crore. In the case of the United India, the capital is Rs. 1,60,000; they have been paying a dividend of 50 per cent; they will get Rs. 16 lakhs. The Vanguard Insurance Company have a capital of Rs. 3 lakhs; they have been paying only a dividend of 5 per cent, and they will get only Rs. 75,000.

My humble submission is that if you apply this rule flatly and uniformly, you will find that these disparities work out unjustly. Certain companies have also started with general business and ploughed back the profits into the life business. They have deferred present profits to future benefits. In their case, if you apply this flat rule, it will work very unjustly and inequitously.

[Shri S. V. Ramaswamy]

Therefore, I submit that a new category may be created. I need not labour on this, because the Finance Minister himself has accepted it, namely that this rule cannot be applied in the case of the displaced companies. I am only requesting that he may be pleased to extend this to companies which are new and young.

If he accepts the principle of it, the point would be whether it would be twenty years, or whether there should be a limitation of Rs. 3 crores set apart. If the Minister accepts it in principle the amount may be varied or the period may be varied, and I am quite willing to accept any amendment to that effect that he may suggest. But, I would request him to accept this principle, which is merely an extension of the principle which he has adumbrated in amendment No. 209.

Shri Nambiar: With regard to payment of compensation, I have got a very strong criticism to make. The principle that is followed by the Minister is that whatever compensation is to be paid is for the future earnings. It is said that the loss to the insurers will be very much, because Government have taken away the industry out of their hands, which they consider would give them a lot of profits in the future.

This principle cannot be accepted because in the insurance companies, the capital invested is very small, and the insurers with the help of such a small capital have come into possession of large sums of money and have been using it in as many ways as they could. They have earned a lot of profit through the subsidiaries as well.

In the background of this, it is unfair to say that they deserve more compensation. The common man cannot understand what exactly he has to pay compensation for. The policy of Government is this.

When capital is nationalised, when an industry is nationalised, the loser must be given compensation. I can understand that proposition. They should be compensated for whatever loss they suffer by way of the taking over of the capital or the advantages that they got. But this should not apply to the entire earnings. The State cannot compensate for that. If that principle was accepted, then no nationalisation would be possible. They may say that the

industry is progressing and they have got a very bright future and, therefore, they must be compensated for whatever loss that they may sustain in the future, not only 20 times but even 200 times. The citizen cannot afford to pay that, especially in the case of an industry like insurance where the risk involved is so small.

I heard the evidence tendered by eminent men like Shri A. D. Shroff and Shri Lakshmi Pat Singhania and others who came to the Select Committee. They could not substantiate their claim, except by saying that they have built up a big industry and they are handing it over to the State; so the State must be generous and must give them something. They might have contributed to the building up of the industry. There is no dispute about it. But they have got the profit, they have got the lion's share already. How can they claim more for that? Today, the Government come with a promise that they are giving them fair compensation. According to the new formula of the Finance Minister, the rate of compensation has been increased. Let us see what the provision in this respect was in the Bill as it went to the Select Committee and what the provision now is as it has emerged from the Select Committee. On the pressure of big business, the Finance Minister has agreed to pay not less than Rs. 1 crore more compensation in the new provision. Today I think they have to pay more than Rs. 1 crore as a result of the agreement that they have reached due to the pressure of big business. There is no justification for this leniency, and then saying that we are giving fair compensation and it is not generous. I want to know what he means by generosity. How many crores more is he prepared to give if he wants to be generous? I cannot understand it. There is no meaning in giving more compensation to the industry where nothing is produced, for the common consumption of the people.

The citizen has got some money in his pocket. That small amount is invested; it is attracted and collected by the insurer. The insurer utilises and spends that money in all ways he likes. At least, a licence is given to him by the State to manipulate it in the way he likes. After these insurers have expropriated, after they have wasted, after they have swallowed, after everything is done, the State comes forward and says, 'Now is the time for nationalisation; but we must

be fair to the persons who have so nicely built up the industry'. I cannot understand this sort of argument. If there was any reason for the improvement of the industry, the credit should go to the State because the State helped the whole community to improve. There was enough surplus in the pocket of the common citizen to invest in insurance. The mortality rate has improved, the living condition of the people has improved and the health of the citizen has improved. All these go to amass wealth in the pockets of a few capitalists who manage it in the name of insurance.

Therefore, here there is no question of unfairness. It is unfair to the State, it is unfair to the crores of the Indian people if these few people are paid in the name of compensation more money. I would request the hon. Minister to accept the original formula at least. Even that is too much. Shri Sadhan Gupta has said that we cannot pay anything more than 10 times. I would say, even that too is too much. But the hon. Minister allowed 20 times first. Now he says it must be multiplied by a ratio. The formula given is a very wonderful one. I am unable to understand what it means; I think others will also not be able to understand it. It says :

"Twenty times the annual average of the share of the surplus allocated to shareholders as disclosed in the abstracts aforesaid in respect of the relevant actuarial investigations multiplied by a figure which represents the proportion that the average business in force during the calendar years 1950 to 1955 bears to the average business in force during the calendar years comprised in the period between the date as at which the actuarial investigation immediately preceding the earliest of the relevant actuarial investigations was made and the date as at which the last of such investigations was made."

This is such a complicated formula that I do not understand it. Not only the Tribunal, but even a Supreme Court Judge will be flabbergasted when he sees this ingenuity of the draftsman and of the Finance Minister.

I put a straight question to the Finance Minister how much would this amount to? He said it would be roughly Rs. 53 or 60 lakhs, and dealt with it in a casual way. I want a categorical

answer now to the question; how much will this amount to? What is the difference between the amount due under the original formula and the amount due under the new formula? I am sure the Finance Minister cannot answer it definitely. He will say it may be Rs. 50 or Rs. 60 lakhs. We are not here to allow such things. I can understand it in the case of an industry in which the industrialists have created wealth for the nation, created anything for the nation; there you can be lavish.

Shri Asoka Mehta (Bhandara): Do not commit yourself.

Shri Nambiar: Let the proposal come and we will see about it later on.

These people have created nothing for the society. They cannot claim any real or reasonable compensation. Granting that the Government are wedded to a set of principles and policy—of course, the socialist pattern is a different thing—before the socialist pattern is reached, there is a process towards socialism. If that is so, the community cannot afford to increase the compensation. No guarantee can be given against the future earnings, in any industry, in any concern. Can the Finance Minister give such a guarantee? No, he cannot. That being so, how can he do it in the case of the nationalised insurance business?

Here we are dealing with the money of crores of people. We must be very careful. A change here and there may be made, but I think it will be too unfair if we allow this sort of attitude to prevail in respect of payment of compensation. We cannot allow more compensation. I strongly oppose any such move and I support the amendments moved by Shri Sadhan Gupta as a compromise.

Shri U. M. Trivedi: When by the fourth amendment of the Constitution, article 31 was amended, we tried to put down in it a clause half-heartedly that we may give compensation, yet we may not fight about the adequacy of that compensation. It was lurking in our minds all along that we must pay compensation, and compensation, when we first framed the Constitution, meant only just compensation. The Australian Constitution provides that compensation must always be just. Our original Constitution also provided that compensation when paid must be just

[Shri. U. M. Trivedi]

We wanted to wriggle out of that position, and made this provision that although we might pay compensation, it need not be challenged in a court of law on the basis of its being inadequate.

Therefore, the Finance Minister appears to have acted in that spirit and has given us various formulae by which he wants to deprive people of their property; yet he wants to give something. He might have said, 'I do not want to give you anything, I might give you one rupee for the whole share.' He would pay some compensation. The question of adequacy does not arise. Yet, we must not forget the fact that when the Imperial Bank was taken over, we paid certain compensation.

We raised hopes in the minds of the people that whatever may be the provisions in the Constitution, it was not the desire of the State to deprive people of their property without compensation, and that compensation would be just and fair. That was the idea that was given to the public at large. The House appreciated it, although people like Shri Nambiar who always want to take away another man's money do not like the idea.

Shri Nambiar: I never plead for taking away another man's money.

Shri U. M. Trivedi: Still the whole community at large does not believe in expropriating another man's money or picking others' pockets. Therefore, I would say that compensation must be paid. We have to examine this provision for paying compensation in the light of what we have been doing so far. The compensation that has been calculated here seems to be due to the various factors that come into play in determining compensation being paid to the companies. Some have their shares soaring very high in the market; some have their shares at a very low level. Under those circumstances, perhaps the Government was not able to come to a proper evaluation of the compensation that could be paid....

Shri C. D. Deshmukh: Some are composite companies.

Shri U. M. Trivedi: I therefore feel that the formula provided by the Government was just and there could not have been anything better than that.

It is true that it might hit some people, but at the same time, in order to arrive at a very fair and just formula which will satisfy one and all, this was the only thing which could be put down in the law. The indication, which was necessary as provided in article 31 of the Constitution, has been given and the manner in which the compensation is to be calculated has been given.

What surprises me most is the reference to clause 36 in the Third Schedule in regard to this compensation clause. Under clause 36, have we got a right to break a contract and pay a compensation as we like? Article 31 does not envisage any breach of contract. Clause 36 says that all contracts will stand cancelled. If we cancel a contract, the ordinary law is that we must pay damages for breaking it. Contract has not been treated as property under the Constitution. The Constitution itself has made a difference between property and contract. Articles 31 and 294 of the Constitution differentiate between property and contract. If a contract is to be broken, I should say that it is fair on our part that we should pay damages according to what the ordinary businessman would do. Those who have entered into contracts and entitled to receive the benefits thereof must not feel that their contracts are broken by Government and that Government is not going to pay them anything as compensation. This would be the utilisation of the police power vested in the Government. In my opinion, it is fit and proper that even if the contracts are broken, even if clause 36 states that they ought to stand terminated it is not possible to do away with the provisions of article 31, because once the Insurance Corporation Bill comes into existence, the contracts ought to cease to have effect and all rights accruing to the chief agent or the special agent under any such contract shall terminate on that day. Here the provision ought to have been that they shall continue to be governed by the contract which they have entered into with the companies. I see absolutely no justification whatsoever for making this provision in the Third Schedule that the compensation payable to a chief agent shall consist of 75 per cent. of the overriding commission specified in the contract relating to chief agency with the insurer on the renewal premiums received by the Corporation

during a period of ten years from the appointed day. This is a method of calculating compensation. It is good as far as it goes, but my personal idea is that where it is a breach of contract, it must be governed by the ordinary law of the land. You are not acquiring a property compulsorily; it is not a property; it may be a property under other circumstances, and as a lawyer I would have to admit that it would become a property. But under article 31, as compared with article 294, contracts have been a different thing, and if a breach of contract has been committed, it must be governed by the ordinary law of the land and we must pay them compensation.

Shri N. C. Chatterjee: Comrade Nambiar has thundered quite a lot, and if the hon. Finance Minister, in a moment of weakness, listens to him. . . .

Mr. Speaker: Is he (Shri Nambiar) in his seat to hear this?

Shri N. C. Chatterjee: Very possibly messages have come from some other place!

Pandit Thakur Das Bhargava: There is no moment of weakness with the Finance Minister.

Shri N. C. Chatterjee: He will be guilty of breach of pledge, and this Parliament will be stultifying itself and declaring that we are doing something grossly unjust and unfair.

Shri C. D. Deshmukh: I am bound to listen to all the speeches.

Shri N. C. Chatterjee: I meant if the Finance Minister responds to his appeal he will be guilty of breach of pledge.

When the hon. Finance Minister announced his policy of nationalising insurance companies, he declared that a fair compensation would be paid to the shareholders of nationalised life business. On that principle, nationalisation was accepted by this House and it would be a breach of pledge if a wanton violation of a solemn promise already given is allowed to take place and if we try to whittle down the little compensation that is given.

The first thing that I want to point out is that surplus occurs after a number of years of working of a company, and if there is any surplus, the

shareholders are entitled to 7½ per cent and in fact,—I hope the information which I have got is correct—most of the companies do not have any surplus for the first ten or fifteen years of working. This is proved by the statement which I have got that out of 154 companies doing life business in India, only 52 have been declaring surpluses, and only 52 companies out of 154 will be entitled to compensation according to the First Schedule, paragraphs 1 and 2, and the remaining 102 companies, which have not declared any surpluses, ought to be treated otherwise and may be entitled to a very very small compensation.

I am not thoroughly agreeing with my friend, Shri Tulsidas, that the insurance chapter is a most glorious chapter in India's history, but there is some force in the point—through candour it should be admitted—that due to our backwardness, due to foreign domination, due to governmental policies, we could not make rapid strides in the insurance world until the year 1950 or thereabouts. Business really became stable only after the year 1950. If you look at the figures for 1950, the amount of new life business was Rs. 1,25,80,00,000 and in 1951, there was a jump to Rs. 131 crores—jump of 4·4 per cent; in 1952 it was also the same; in 1953, it went up to Rs. 1,38,20,00,000.

In 1954 there was a phenomenal increase of Rs. 2,13,13,00,000; almost 54 per cent increase. Therefore, these figures are telling and figures show that during 1954 new business insurance in India had increased by over 50 per cent, as compared with previous years. So, if a dispassionate view is taken, if our minds are not clouded by prejudice it can be confidently stated that this increase would have continued and at the end of five years, possibly, new business would have gone up to Rs. 400 crores if not more.

What I am pointing out is that the compensation as suggested in the Life Insurance Corporation Bill is not at all over-generous; on the other hand it is strict and may be unfair in some cases.

The existing Insurance Act, which was amended in the year 1950, has reduced the shareholders proportion of

[Shri N. C. Chatterjee]

valuation surplus to 7½ per cent. Therefore, I submit there is hardly any justification for Government now reducing the percentage to 5½ per cent. for determining compensation for future. If surplus is the basis of compensation, then it should not be less than 7½ per cent.

Then there are different methods of valuation. Shri Tulsidas made one point and I think there is a good deal of force in that. He pointed out that the life insurance business has been nationalised on 19th January, 1956 and asked, why then should the valuation year be taken, say, three years before. It should be at least based on 31st December, 1955 valuation as in the present circumstances. Before the 1950 Act came into operation, valuation period was generally quinquennial. In the 1950 Act it was made compulsory to have valuation for every three years. Suppose a company had made its valuation in 1953 and the previous valuation was made in 1950—that is for five years, 1946 to 1950 period—in that case the company's future is to be decided on the basis of surplus from 1946 to 1953. That is not fair, as, Sir, I have told you, during this later period there has been a progressive development of business and actually the insurance world has done better. Therefore, what I am pointing out is that there is a good deal of force in what he said.

I am also suggesting for the consideration of the hon. Minister that there should be a fresh valuation for every company on the 31st December, 1955 and on that basis you should formulate your scheme of compensation. That will be more fair and more reasonable.

My learned friend Shri U. M. Trivedi has pointed out that the Australian Constitution has got the expression "just compensation" and in the Indian Constitution we have got the word "compensation". The Supreme Court has pointed out, it does not matter whether the word is "compensation" or the words are "just compensation". They have said that the word "compensation" means the same thing. Chief Justice Shastri said that there cannot be any "unjust compensation"; if compensation does not compensate then it cannot be compensation at all. What I am pointing out is that the word "just" in that context is mere tautology.

The question is whether what we are doing is anything over-generous, absurd or is it something fair or reasonable. The hon. Minister, if I have his words correct, said: "Both in respect of short period during which the management of the companies will vest in the Government and in respect of ultimate assumption of proprietorial right over them, reasonable compensation will be paid by Government." That is the formula which the Minister has accepted, to which the Cabinet is pledged and this Parliament also is pledged. Therefore, there should be a fair estimate not merely of what they are getting now, but of the future gains the shareholders would have made, had the business continued in the private sector. On that basis, I submit, the compensation should be formulated and, if that is the test, what has been done is not only not over-generous but below the line.

The suggestion made was that there should not be an artificial depletion of compensation by antedating the basic period to 1950, 1951 or 1952, but there should be a proper valuation made with regard to the basic year 1955, especially in view of the fact that there was a remarkable improvement. I am also pointing out that, in view of the Insurance Act of 1950 by which the valuation of life insurance business was required to be done once in three years, we should also formulate our compensation scheme like that. We should also see that there should be no unfair discrimination made between company and company. I am, therefore, suggesting that these people, most of whom belong to the poor middle class, should not be hard-hit and they should not be unfairly dealt with.

Shri Keshavaiengar : Sir, at the very outset...

Some Hon. Members rose—

Mr. Speaker : I cannot go on adding to the number. When we start the discussion I have an idea as to how many Members will speak and then I allocate time.

Shrimati Sushama Sen (Bhagalpur South): I just want to say a few words only.

Mr. Speaker: Why was the hon. Member not present earlier?

I will see what can be done.

Shri Keshavalengar : Sir, at the very outset I would like emphatically to repudiate the baseless observation made by my friend opposite, Shri Nambiar, that the Government has submitted itself to the pressure of big business. It is certainly not so; otherwise this Bill would not have been before us today. I am not surprised at the principles propounded by him, coming from the Party he belongs to. Whatever it is, if you do not pay any compensation it would amount to a cultured, enlightened and constitutional day-light robbery and I would like that we should be fair, just and reasonable in whatever we do, even if it be our enemies.

With that background, Sir, I have moved a few amendments to the Third Schedule. I would like to say a few words regarding my amendment No. 210. I am not satisfied with the compensation that is allowed to this useful section of insurers, the chief agents, as it has now been provided in the Third Schedule. I would like to bring to the notice of this House that the main real income of this section of insurers is the commission they derive from fresh business they bring in every year. Every year they bring in new business. Nothing has been provided for the loss of that business and even for that portion of the loss that is incurred in the latest year of business that they have done. Even for the balance of business in respect of previous years I think they are legitimately entitled to some compensation. Apart from that, I have suggested in my amendment that we should also provide for them a lump sum amount of ten times the overriding commission on the fresh business brought in by the said chief agent in the year immediately preceding the appointed date. In my opinion that would be proper and just; that would be a reasonable compensation for these chief agents. Apart from that, in my amendment No. 210, I have suggested that we should pay a lump sum of seven times the overriding commission on renewal premiums. We have not been fair in dealing with this matter of compensation in respect of the various persons of sections of people involved in this Bill. I have been seeing that we are making absolutely unregardly and a sort of discriminatory treatment so far as this class of insurers are concerned. We are not respecting the terms of contract they have entered into with several companies.

We are wiping them out of existence altogether. They are not in a position to do any more of business in that company. When that is the case and when we have been providing them with this small compensation, I would like to suggest that we should also provide them with another alternative. Why not give them an option of payment of a lump sum amount of seven times the overriding commission on renewal premiums in the year immediately previous to the appointed day? By this amendment I am seeking to introduce only a payment of a sum equal to the amount provided for under this Bill. It does not involve in any manner any additional financial commitment on the part of the Government. I am only suggesting this amendment with this idea in my mind, that those people who go out of employment altogether will be enabled to rehabilitate themselves if we make a sort of lump sum payment which is nothing else except a capitalisation of the amount afforded to them under this very Bill itself. That will be certainly, according to the statement made by the Minister, free from income-tax, and as such, it will certainly enable them to effectively rehabilitate themselves in other walks of life. It is a very reasonable request that I am making, and I hope my learned colleague, the hon. Minister, will accept it.

3 P.M.

I would like to suggest that in making this arrangement, it is not very improper that we shall be having an administrative convenience. In fact, as the Bill stands now, we are providing the payment of this compensation on a calculation made every year. On the other hand, if a lump sum amount is provided, we get rid of them once and for all. It is worthwhile, even in our own interest and even considering the administrative set-up, to provide them with the option and enable them to go out without any heartburning whatsoever.

The other amendment which I have suggested in this connection is a small one. I feel that instead of the payment being made annually, let us make it monthly, and it will facilitate them to have a sort of living even though they are knocked out of their business altogether by the enforcement of this Bill. I think that is not a matter which is so unacceptable to the Government.

[Shri Keshavaiengar]

That could be made very easily, without much difficulty, and I am sure my colleague will accept that amendment also. The amount may be paid monthly to him or to his heirs. Several of these people have been working on a partnership basis and as such it will obviate all difficulties on their part if the amount is paid to their nominees. With these few words, I commend my amendments to the acceptance of the House.

Mr. Speaker: We started this at 1-15. Two hours have been allotted to this item. I will call upon the hon. Minister now to reply. Of course, if any hon. Member wants to put any question now, I have no objection.

Shrimati Sushama Sen: I wanted to point out my amendment also, regarding 7½ per cent. compensation. I find that most of the Members are agreed on that amount of compensation. I appeal to the Finance Minister to consider that point.

Shri Matthen (Thiruvellah): I want to say a few words about the young companies, which are less than 20 years old. Shri N. C. Chatterjee said that it would take 15 years or so for a young company to come up to the yielding stage. At the time of yielding profits or good results, the Government nationalise the concerns. Of course, nobody has any quarrel with nationalisation. But what I say is, those young companies must be given a liberal valuation. I was very happy to note the amendment brought forward by the hon. Finance Minister today about the refugee companies. Such liberality, or at least such fairness should be shown to the companies which are just 15 to 20 years old.

Take, for instance, some of the plantations. They take some years to yield. At that time, you take them away. Companies who have been paying dividends of 80 per cent. are given very liberal compensation. That is very unfair. After all, there are so many companies which are very young. Therefore, I would appeal earnestly to the hon. Minister to consider the case of those young companies, which has also been referred to by Shri S. V. Ramaswamy. I therefore support the amendment of Shri S. V. Ramaswamy.

Shri C. D. Deshmukh: I shall first deal with amendment No. 13 to clause 16. The hon. Member, Shri Tulsidas, wants that in addition to the compensation payable, interest should be paid at the rate of 3½ per cent. for the period between 19th January, 1956 and the date of payment of compensation. We are ourselves most anxious that compensation should be settled and be paid as quickly as possible. Therefore, we do not anticipate any delay. In any case, there is no justification for the payment of interest for any period before the Bill becomes law. Unless, therefore, there is any apprehension—which to our mind does not exist—of payment of compensation being unduly delayed, we see no need for providing for the payment of interest also. That is all I have to say in regard to amendment No. 13.

Then, I come to amendment No. 204 to clause 36, which has been moved by Shri Sadhan Gupta. The difficulty which his amendment seeks to overcome arises out of the almost universal practice of companies accepting premia in half-yearly, quarterly or monthly instalments. The special agents get an overriding commission of 15 per cent.—under the Insurance Act—on the first year's premia received under policies booked through their agency, no renewal commission being payable. Naturally, the commission would be paid only on the instalments actually received from time to time. Suppose the policy was taken out on 1st May, 1956, the premia being payable quarterly, there would be no difficulty about the commission on the quarterly premia due on 1st May, 1956. But the hon. Member is not sure that the commission on the other three instalments of the first year's premia, namely, the instalments due on 1-8-1956, 1-11-1956 and 1-2-1957, would also be paid notwithstanding the appointed day intervening. Now, a reading out of the Schedule does not support this apprehension, but I can assure the hon. Member that it is the intention to pay an overriding commission on all the remaining instalments on the first year's premia. I think this assurance will be welcomed.

Shri Sadhan Gupta: My apprehension does not arise out of the Schedule, but from the clause itself. Clause 36 says as follows:

“Notwithstanding anything contained in the Insurance Act or in

any other law for the time being in force, every contract appertaining to controlled business subsisting immediately before the appointed day—”

I omit the rest and proceed further—

“shall, as from the appointed day, cease to have effect and all rights accruing to the chief agent or the special agent under any such contract shall terminate on that day:”

So, all the rights including the right to take overriding commission will terminate on the appointed day. That is why I suggested that it might be safeguarded.

Shri C. D. Deshmukh: Our intention is not to regard this as an accrued right which should be terminated in connection with the series of payments due and the collection of the commission. As I said, this particular clause must be read with the Schedule. As we do not construe the Schedule in the way in which the hon. Member would construe it, I do not think there is any apprehension such as he entertains.

Now, I had better deal with the Third Schedule, because there are a number of amendments moved by Shri Keshavaiengar. There is first this amendment No. 31 saying that payment should be made monthly and it should be made over to the chief agent himself or his nominees. As regards monthly payments, even as it is, making up the accounts of all the 250 odd chief agents and keeping track of all the policies booked by them, would be a very difficult task.

Therefore, preparing monthly accounts in an obligatory way would, in our opinion, be an oppressive administrative burden. As regards payments to nominees, it is not necessary....

Shri Velayudhan: They were getting monthly before.

Shri C. D. Deshmukh: Each company kept its own accounts in regard to its agents. Now, the Corporation will have to do all that for all the agents.

Pandit Thakur Das Bhargava: Is it not a part of the agreement between the company and the chief agents that they will get payments as they fall due?

Shri C. D. Deshmukh: Now we are making a different provision.

Pandit Thakur Das Bhargava: Is it not tampering with the agreement?

Shri C. D. Deshmukh: It may be, but we are giving the reasons for it, namely, that it would be an intolerable administrative burden.

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes): Why not commute the whole thing and pay a lump sum?

Shri C. D. Deshmukh: That is a separate amendment: I am coming to that. I cannot carry on running debates. I shall, however, answer all these questions.

As regards payments to nominees, it is not necessary to go out of the way to cut across the normal provisions of the law. The chief agent should make his own arrangements for his nominee receiving the compensation in the same way as he would have done in the normal circumstances. I should like to add that in order to avoid any difficulties arising to the chief agents in a sort of ways and means sense, not in the legal sense, we shall be prepared to issue executive instructions that 'on account' payments are made and I think that ought to meet the object which the hon. Member has in view.

I come now to the question of lump sum payment which is the content of amendment No. 46. He wants that in addition to the compensation laid down the chief agents should be paid an amount equal to ten times the overriding first year's commission earned by him during one year immediately preceding the appointed day. He feels that the schedule provides for loss of renewal overriding commission on the existing business, but does not provide for loss of overriding first year's commission on the new business he might introduce in the future. Now there is of course no case for this. The entire first year's overriding commission is usually consumed in expenses. Then the compensation provided in the

[Shri C. D. Deshmukh]

schedule though expressed as percentage of the renewal overriding commission takes every aspect into account, including the average future duration of the existing contracts of chief agents.

Then, as regards commutation—that is slightly a separate point—that is the substance of his amendment No. 210. That provides that the chief agent will have the right, at his option, to commute the compensation which is now payable annually for a period of ten years and that the commuted amount shall be seven times the overriding commission earned by the chief agent in one year preceding the appointed day. As regards the first, that is to say, the option, it is in our opinion, incorrect to give option to only one of the two parties. This would result in what is known in actuarial parlance as adverse selection against the Corporation and as regards the second, that is to say, they shall be seven times the overriding commission, since compensation payable is 75 per cent of the overriding commission receivable, giving seven times the overriding commission means that we are commuting the annual instalments of compensation at nine and a half years' purchase. This is much too high,

Shri Keshavaingar: You can reduce the amount.

Shri C. D. Deshmukh: That is another matter; that is not the substance of the amendment. . . . compensation instalments are receivable annually for ten years, and secondly—that is a very important reason—because the quantum of compensation will decrease rapidly owing to maturities, surrenders and lapses and thirdly due to the operation of the interest factor. I think the arrangement that we are suggesting will keep the chief agents alive to their residual responsibility at least to ensure that renewal permit come, because their commission will be dependent on the extent to which renewal takes place. That is the reason why I am unable to accept the amendments of my friend Shri Keshavaingar.

Now I come to the main issues—there are two issues. I had before dealt with the displaced banks. One of the important points made by Pandit Thakur Das Bhargava was that displaced companies should get additional

compensation as they lost properties in Pakistan. Now, if his argument is accepted, we would not know where to draw the line. There is the Oriental, for instance, which also lost properties although it was not a displaced insurer. But it also had properties in Pakistan. And we could not very well discriminate between the Oriental and some of the others merely because the others happened to have their headquarters in Pakistan. It must be remembered that the formula that we have evolved is out of a desire to make some *ex gratia* payment in recognition of the very special and unique difficulties of the banks which would fall under part 2. Part A companies get compensation on the basis of their past allocations to the shareholders, but Part B companies get only assets minus liabilities. The latter also, therefore, under our scheme will get additional *ex gratia* compensation.

Then he has tabled various amendments. We are going by two valuations in all cases because two valuations give a truer picture of the position than one. There are reasons to believe that many companies had in their anxiety to do well in the bonus competition which started about 1953 did not adopt a conservative policy in their latest valuation. Therefore, we think that going upon the latest valuation might be unsafe. Then there is amendment No. 215. Now, he says if you are giving anything at all, then why limit it? My answer is that what we are giving is an *ex gratia* additional compensation, that is to say, we penalise ourselves to the extent of 50 per cent. for what could be regarded as an act of God. We recognise that the company should not be held responsible for the entire loss; nor is there any reason why the community should be held responsible for the entire loss. Therefore, we feel that we have found a golden mean between the two and that is why we have put out this formula and limited it to half. That is perhaps amendment No. 216; the other one was 215. It must be emphasised again that it is *ex gratia* and that the Corporation has no legal obligation to pay this additional compensation. From what I have been able to ascertain, I think the displaced insurance companies concerned which are coming under Part B will have reason to be satisfied at the treatment that is being meted out to them.

Pandit Thakur Das Bhargava: The community is responsible for the partition also.

Shri C. D. Deshmukh: In his amendment No. 217, the Member wants to change the word to 'more'. Suppose the losses in Pakistan were only one rupee, or a small or insignificant sum, according to this amendment, the additional compensation might come to several lakhs. Therefore, I do not think it would be proper to make the change suggested by the hon. Member. As regards displaced banks, I say that I feel confident that the arrangement we are suggesting will be regarded as fair and reasonable.

That brings me to the main issue of compensation. Here, as usual, various views have been expressed which, to a certain extent, neutralise each other. Shri Nambiar has been joyously incoherent and unconvincing in regard to the schemes he has advanced and his friend Shri Sadhan Gupta was, as usual, impressively dialectical. On the other hand, Shri U. M. Trivedi, who is not here, was also dialectical. The rest of the hon. Members have shed light on various problems which are relevant to this question of compensation, which I do not regard as a very simple one. I should say right from the beginning that we have to decide this matter in the light of a philosophy and an attitude towards life. Hon. Members made reference to the Constitutional amendment. I had many previous opportunities of expressing my belief, which is in agreement with that adumbrated by the Member opposite, that when we give compensation, we should try to give compensation. I cannot think of compensation and then work backwards to a sum which is consciously inadequate because of the Constitutional amendment. I for one personally cannot swallow it. I deprecate the tendency first to think in terms of compensation and then to try to work out various ways in which it could be reduced. I can at least plead that hon. Members may not be able to agree with me that I have taken a valid view of every aspect of the matter. But, I can certainly plead that I make the best endeavour to arrive at a fair settlement.

One hon. Member, I think Pandit Thakur Das Bhargava, said that the use of the word fair, generous, adequate and inadequate, is all irrelevant because you are concerned with *quid pro quo*. That,

I realise. On the other hand, it is usual to describe one's view of this total effort in some language. The only language that occurs to one is this: fair, just, reasonable or whatever word appeals to one. I am inclined to use the word fair more than anything else. But, if hon. Members like, they can use the word reasonable. I think, it comes to pretty much the same thing. Considered from that point of view, I am reinforced by what I have heard in my view that on the whole, we are trying to give compensation and we are not trying to practise a fraud on the law.

That brings me to the theories because, as I said, this is a matter of philosophies. Certainly we have made a provision in the Constitution that the parties will not be able to go to court merely because compensation is inadequate.

Hon. Members who are familiar with the history of the matter and the rulings that led to it will know that there is many a way of looking at this compensation. Take the case of present profits and future profits, potential value of property and present value of property. Here is a matter in which even the highest authorities may take different views. The result of their taking different views is that some people regard the compensation that is offered or given as inadequate. It was for that reason, I think, that the House specifically provided that merely on this issue, it would not be a justifiable matter. Nevertheless, *a fortiori*, for all the more reason, a duty rests on the House to try and include compensation as fairly as they can. This is the theory that I entertain and I have worked out this compensation on this philosophy.

It remains to deal with one particular philosophy urged by Shri Sadhan Gupta. He was hurt that whereas when workers retire, they are given a different kind of compensation, may be sometimes 3½ months' pay or 3½ years pay—he quoted various instances—here we are giving something which is 20 times. The fact is that, if a worker retires, he retires and his capacity to work no longer exists what he has got is not compensation; it is gratuity. It is not as if you are saying to a worker as Delilah said to Samson, I am taking all your strength and therefore I owe you compensation. We do not take away anything from the worker.

Shri Sadhan Gupta: When he is killed in the course of employment by doing a hazardous job for you, what then?

Shri C. D. Deshmukh: To the extent to which his earning power is reduced, we work out compensation. To what extent a person has lost his capacity to work, is not a matter which is amenable to a simple formula. What we are dealing with is value of property. What you are taking over is property of somebody and there are reasonable and commonsense rules for valuing that.

Shri Sadhan Gupta: Capitalistic commonsense.

Shri C. D. Deshmukh: Whether one calls it capital or principal and interest, these are matters of theories. The fact is that you are taking some money constructively. You are not taking some money, but taking some money constructively. That sum of money being put out for interest, we have to calculate what is the return which he is getting on that sum of money. Then, we go round the other way. We find out what return he has been getting and then calculating backwards find what the value of the property should be. It is a very straight forward way of dealing with this question.

Shri Nambiar must have very very fundamental ideas about what money is. Because, he said that these insurance companies produce nothing. He can only think of compensation in terms of acquisition of industrial property. I think, apart from being invalid, this is a very dangerous mode of thinking. Because, he will now suggest that the Corporation which is taking over the business of insurance must not make any money, must not keep any surplus, must distribute everything to the policy-holders because the Corporation is producing nothing.

Shri Nambiar: It does not produce any commodity which is necessary. It is only collecting the money of the people.

Shri C. D. Deshmukh: This is not intended to produce any commodity. We are at variance on the fundamentals of this issue. He does not understand what social purpose insurance serves in this world. I think we should

not be guided even in our weak moments by theories put out like this, that is to say, false analogies, what workers or what money produces, what industrial capital produces and so on, but bend our mind to find out what exactly is the value of the property that we are taking over. Nobody is denying that we are taking over something.

The next question is, how this property has been built up. Hon. Members have referred to some small capital with which people started. That is true enough. But, as I pointed out the other day, that is true of all sums of money. If one put out Rs. 100 for interest 50 years ago, would hon. Members argue that when we take that over, we must pay only Rs. 100 because the man has been thrifty enough to put back his interest into that money? That is to say, is he a conscientious objector to compound interest?

In essence that is what it appears to be. Here on an analysis what one finds is with that little capital one gathers a band of experts and invites other people to place contracts of insurance with that syndicate or company, whatever it may be. And the essence of the contract is that for the major part these moneys will be handled for the benefit of the policy-holders. That finds its reflection in the bonuses and premia rates and various other terms and conditions of the policies. There is a balance left which was at one time ten per cent. Then it was reduced to 7½ per cent. then practically many companies have been giving four and five per cent. and so on and so forth. It is that which we are trying to calculate. It is reflected, perhaps, in the difference between the assets and liabilities. It may be reflected, in the case of pure life insurance companies, in their share value, but there is no uniform way of calculating all this, and that is why we have had these somewhat unintelligible categories, the Schedules and the various sections of the Schedules, paragraphs 1, 2, Part A, Part B and so on and so forth, but all these represent an honest attempt to find really what the value of the property is and I am quite convinced that we are fair and reasonable, in other words, we are not unfair to the community, neither are we consciously unfair to the shareholders.

Many hon. Members have said that some companies have been giving larger surpluses, some companies are young and they have not yet had time to accumulate surpluses or to build up a position which would yield surpluses. These are factors which it is not possible to deal with. After all, nationalisation comes in any year and since new companies are being started, it will never happen that you will not have a young or new company on your hand. It is just too bad for that company that the whole business is being nationalised. I am not, therefore, impressed by the argument of my friend behind, Shri Ramaswamy, and I do not consider that there is any case for discriminating between company and company.

Shri S. V. Ramaswamy: Will the hon. Minister think of *ex gratia* payment on the lines of compensation to these refugee companies?

Shri C. D. Deshmukh: That is implied in my statement that I am not prepared to do that.

Shri N. C. Chatterjee: He has spoiled the case!

Shri C. D. Deshmukh: I say that rehabilitation of displaced persons is an entirely new problem. On the other hand, varying compensation according to the age of companies, according to their capital, according to the region in which they are operated and so on and so forth, all these lead you into dangerous directions of discrimination.

I shall not go into the details of what he has suggested, except to say that I think he has been given some wrong information in regard to the compensation likely to be payable to certain companies. He has impressed me with the dispatch with which he turned over page after page and quoted the figures of compensation that will be payable. Industrial Prudential, he says, will get compensation of rupees one crore. According to our calculation, they are likely to get only Rs. 14 lakhs. Similarly, the Vanguard, which is a composite company, he says, will get—how much?

Shri S. V. Ramaswamy: Rs. 75,000.

Shri C. D. Deshmukh: Am I wrong then in regard to Industrial Prudential?

Shri S. V. Ramaswamy: The capital of Industrial Prudential is Rs. 2.19 crores and the compensation would be Rs. 1 crore.

Shri C. D. Deshmukh: I am right there at any rate.

Shri S. V. Ramaswamy: I submit the correctness of the figures....

Shri C. D. Deshmukh: I am only doing the necessary correction. I am not doing anything else.

One last point and that is in regard to future business. Certain hon. Members opposite have said that we are trying to take into account the future potentialities of profit-earning of these companies. That is not so. I admit that the formula that we have evolved is a very complicated one, but the general effect of it is to take account of the expansion of business up to December, 1955, that is to say, that is a factor by which the compensation calculated otherwise on the two previous valuations will be increased. We thought that at least was fair. In other words, we pay them after taking into account the latest results, although we do not take into account only the latest results. I think that is fair both to the community as well as to the companies.

One last thing and that is a bit of information. Hon. Members wanted to know what the total compensation is likely to be. For all companies, Parts A, B and C included, it will be Rs. 450 lakhs in round figures and it is true that the addition that we are making in consideration of the latest state of business will be Rs. 53.2 lakhs. Then the transfer of some companies from Part B to Part A will cost us Rs. 1 lakh and the increase in the matter of deemed allocation from 3 to 3½ per cent will cost us Rs. 9 lakhs and I think these displaced companies may cost us, as I said, a figure under Rs. 10 lakhs, may be about half. So I think the House will not be far out if it assumes that the total compensation will be round about Rs. 450 lakhs.

I, therefore, oppose all the amendments that have been moved except the one that I have moved myself.

Shri Tulsidas: May I ask for the hon. Minister's reaction to the amendment which I have proposed to clause 16 regarding the question of the rate of interest?

Shri N. C. Chatterjee: He has answered that.

Mr. Speaker: He has dealt with it. He has not accepted it.

The question is:

Page 27—

after line 26 add :

“Paragraph 5.—If the insurer to whom compensation is to be given under this Part is a displaced insurer, the compensation to be given shall be computed in accordance with the following provisions:

Firstly, there shall be ascertained the losses incurred by the displaced insurer in respect of claims arising by deaths established by the displaced insurer to have been caused by the civil disturbances which took place on the occasion of the setting up of the Dominions of India and Pakistan, the total loss being taken as the difference between the amounts paid as claims in respect of such deaths and the total amount of the actuarial reserve in respect of the relevant policies;

Secondly, there shall be ascertained the difference between the market value as at the 15th day of August, 1947, of any immovable property in West Pakistan belonging to the displaced insurer and the market value thereof determined under Paragraph 3 of this Part, or where any such immovable property has been sold before the 19th day of January, 1956, the difference between the market value thereof as at the 15th day of August, 1947, and the sale price;

Thirdly, there shall be ascertained the amount of deposits held by the displaced insurer in banks which could not be withdrawn on account of a moratorium declared under any law for the time being in force, to the extent to which such deposits have become losses;

Fourthly there shall be ascertained the difference between the market value as at the 15th day of August, 1947, of any shares in

any company now carrying on business in West Pakistan held by the displaced insurer and which had been acquired before the 15th day of August, 1947, and the market value of such shares as at the 19th day of January, 1956.

The amount of compensation to be given to the displaced insurer under this Part shall be—

- (a) the amount which would have to be given to him if this Paragraph had not been enacted, *plus*.
- (b) an amount which represents one half of the difference between the compensation which would have to be given to him if to the value of the assets referred to in Paragraph 3 there had been added the sum of the four items referred to in this Paragraph and with respect to the liabilities referred to in Paragraph (4), the life insurance fund had been increased by a like sum, and the compensation which would have to be given to him if this Paragraph had not been enacted

or

one half of the paid-up capital of the displaced insurer whichever is less.

Explanation.—For the purposes of this Paragraph ‘displaced insurer’ means an insurance company whose registered office during any part of the year 1947 was in any area now forming part of West Pakistan and whose registered office is now in India.”

The motion was adopted.

Mr. Speaker: The question is:

Page 24—

after line 2, add :

“Provided that in the case of displaced insurers relevant actuarial investigations shall mean the last valuation only.”

The motion was negated.

Mr. Speaker: The question is:

Page 24—

after line 2, add :

"Provided that in the case of displaced insurers half of the sum resulting from the addition of the four items given in paragraph 5 shall be added to the first of the two relevant actuarial investigations mentioned in the Explanation."

The motion was negatived.

Mr. Speaker: The question is:

That in the amendment proposed by Shri C. D. Deshmukh—

before the Explanation, omit:

"or

one half of the paid-up capital of the displaced insurer whichever is less."

The motion was negatived.

Mr. Speaker: The question is:

That in the amendment proposed by Shri C. D. Deshmukh—

in part (b), for "less" substitute "more".

The motion was negatived.

Mr. Speaker: The question is:

Page 23—

for lines 14 to 23, substitute :

"Paragraph 1.—Twenty times the annual average of the share of the surplus allocated to shareholders as disclosed in the abstracts aforesaid in respect of the last actuarial investigation multiplied by a figure which represents the proportion that the business in force during the calendar year 1955 bears to the average business in force during the calendar years comprised in the period for which the last actuarial investigation was made."

The motion was negatived.

Mr. Speaker: The question is:

Page 23, line 18—

for "1950" substitute "1953".

The motion was negatived.

Mr. Speaker: The question is:

Pages 23 and 24—

omit lines 32 to 37 and 1 and 2.

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respectively.

The motion was negatived.

Mr. Speaker: The question is:

Page 24, lines 7 to 10—

omit "where an insurer has allocated to shareholders more than 5 per cent. of any such surplus as is referred to therein, the insurer shall be deemed to have allocated only 5 per cent. of the surplus and."

The motion was negatived.

Mr. Speaker: The question is:

Page 24, line 8—

for "5 per cent." substitute "6½ per cent."

The motion was negatived.

Mr. Speaker: The question is:

Page 24, line 11—

for "allocated any such surplus to shareholders" substitute :

"allocated to shareholders any such surplus as is referred to therein."

The motion was negatived.

Mr. Speaker: The question is:

Page 12—

for lines 1 to 8 substitute:

"(2) The amount of the compensation to be given under sub-section (1) above, shall, in the first instance, be determined by the Corporation in accordance with the aforesaid principles, and if the amount so determined is approved by the Central Government, it shall be paid to the insurer without prejudice to his rights under sub-section (3) below, with interest at three and a half per cent. from the 19th January, 1956, till the date of payment; and that such payment shall be made before the 31st December, 1956.

(3) If such payment is not acceptable to the insurer in full satisfaction of the compensation payable to him under this Act, he may within such time as may be prescribed for the purpose have the matter referred to the Tribunal for decision; and where the Tribunal orders to be paid to the

[Mr. Speaker]

insurer any sum in addition to the principal sum paid to him under sub-section (2) above, such sum shall be paid within one month of the date of the order of the Tribunal, together with interest on it at three and a half per cent. from the 19th January, 1956 till the date of payment."

The motion was negatived.

Mr. Speaker: The question is:

Pages 23 to 26—

for Part A substitute :

"Part A

The compensation to be given by the Corporation to an insurer having a share capital on which dividend or bonus is payable, who has allocated as bonus to policy-holders the whole or any part of the surplus as disclosed in the abstracts prepared in accordance with Part II of the fourth Schedule to the Insurance Act in respect of the last actuarial investigation relating to his controlled business as at a date earlier than the 1st day of January, 1955, shall be ten times the share of the surplus to disclosed which was allocated to share-holders.

Explanation 1.—Where no share of the surplus so disclosed was allocated to share-holders or where the share allocated was below 3½ per cent. the share allocated shall be deemed to be 3½ per cent.

Explanation 2.—An Insurer incorporated outside India shall be deemed to have allocated to share-holders the same percentage of the surplus as disclosed in the abstracts prepared in accordance with Part II of the Fourth Schedule to the Insurance Act in respect of the last actuarial investigation as at a date earlier than the 1st day of January, 1955, as the percentage of the surplus in respect of the world business of the insurer as ascertained with reference to the last actuarial investigation relating to such business as at a date earlier than the 1st day of January, 1955, which is allocated to share-holders, such percentage being computed subject to the provisions of Explanation I and any amount in excess of 7½ per cent. being ignored:

Provided that in the case of any such insurer in respect of whom an order has been made under section 35 the amount computed as follows shall be deemed to be the surplus—

- (a) there shall be deducted from the surplus as disclosed in the abstracts aforesaid, interest at 3½ per cent. per annum for one year calculated on the assets specified in any order made under sub-section (2) of section 35;
- (b) with respect to the balance arrived at under clause (a), there shall be computed an amount that bears the same proportion to the said balance as the liability on policies appertaining to the controlled business of the insurer, other than those expressed in any foreign currency issued on the lives of persons who are not citizens of India, bears to the liability in respect of all policies appertaining to such business, the liabilities on policies being computed as at the 31st day of December, 1955, in accordance with the provisions contained in clause (b) of the Second Schedule:

Provided further that—

- (a) in any case where the order made under section 35 is with reference to sub-section (2) only, the preceding proviso shall have effect as if clause (b) had been omitted therefrom; and
- (b) in any case where the order made under section 35 is with reference to sub-section (3) only, the preceding proviso shall have effect as if—
 - (i) clause (a) had been omitted;
 - (ii) in clause (b), the words, brackets and letter "with respect to the balance arrived at under clause (a)" had been omitted; for the words "the said balance" the words "the surplus" had been substituted; and for the words, brackets and letter "with the provision of clause (b) of", the words and letter "with method A specified in" had been substituted.

Explanation 3.—Where an insurer is an insurer incorporated outside India whose paid-up capital is outside India, the provision contained in this part shall have effect as if a sum equal to that part of the paid-up capital of the insurer as determined by the Central Government to be allocated to the controlled business of the insurer had been deducted from the surplus of the share which is allocated or deemed to have been allocated in accordance with the provisions of this part."

The motion was negatived.

Mr. Speaker: The question is:

Page 23—

for lines 5 to 30 substitute :

"The compensation to be given by the Corporation to an insurer having a share capital on which dividend or bonus is payable, who has allocated as bonus to policyholders the whole or any part of the surplus as disclosed in the abstracts prepared in accordance with Part II of the Fourth Schedule to the Insurance Act in respect of the last actuarial investigation relating to his controlled business as at a date earlier than the 1st day of January, 1955, shall be ten times the annual average of the share of the surplus allocated to shareholders as disclosed in the abstracts aforesaid in respect of the relevant actuarial investigations multiplied by a figure which represents the proportion that the average business in force during the calendar year 1950 to 1955 bears to the average business in force during the calendar years comprised in the period between the date as at which the actuarial investigation immediately preceding the earliest of the relevant actuarial investigations was made and the date as at which the last of such investigations was made."

The motion was negatived.

Mr. Speaker: The question is:

Page 23, line 13—

omit "or paragraph 2, whichever is more advantageous to the insurer."

The motion was negatived.

Mr. Speaker: The question is:

Page 23, line 14—

for "Twenty times" substitute "Ten times,"

The motion was negatived.

Mr. Speaker: The question is:

Page 23, lines 16 to 23—

omit "multiplied by a figure which represents the proportion that the average business in force during the calendar year 1950 to 1955 bears to the average business in force during the calendar years comprised in the period between the date as at which the actuarial investigation immediately preceding the earliest of the relevant actuarial investigations was made and the date as at which the last of such investigations was made."

The motion was negatived.

Mr. Speaker: The question is:

Page 24—

omit lines 3 to 6.

The motion was negatived.

Mr. Speaker: The question is:

Page 23—

omit lines 24 to 30.

The motion was negatived.

Mr. Speaker: The question is:

Page 23, line 31—

for "paragraph 1" substitute "this part".

The motion was negatived.

Mr. Speaker: The question is:

Page 24, line 4—

for "(including any bonus)" substitute "(excluding all bonuses)".

The motion was negatived.

Mr. Speaker: The question is:

Page 24, line 7—

for "paragraph 1" substitute "this part".

The motion was negatived.

Mr. Speaker: The question is:
Page 24—

(i) line 8,—
for "5 per cent." substitute
"4 per cent."

(ii) line 10,—
for "5 per cent." substitute—
"4 per cent."

The motion was negatived.

Mr. Speaker: The question is:
Page 24—

(i) line 12—
for "3½ per cent" substitute "3
per cent."

(ii) line 13,—
for "3½ per cent" substitute "3
per cent."

The motion was negatived.

Mr. Speaker: The question is:
Page 24, line 17—
for "paragraph 1" substitute "this
part".

The motion was negatived.

Mr. Speaker: The question is:
Page 25, line 31—
for "paragraph 1" substitute "this
part."

The motion was negatived.

Mr. Speaker: The question is:
Page 25, line 35—
for "were inserted at the end of
that paragraph and" substitute
"were inserted before explanation
1 of this part and immediately
after the words" and the date as
at which the last of such investi-
gations was made."

The motion was negatived.

Mr. Speaker: The question is:
Page 25 and 26—
omit lines 36 to 39 and 1 to 5 re-
spectively.

The motion was negatived.

Mr. Speaker: The question is:
Page 18—
after line 3, add :
"Provided further that nothing
contained in this section shall

affect the right of any special
agent to any overriding commis-
sion in respect of business pro-
cured by him through insurance
agents till immediately before the
appointed day, if and when the
payment of the annual premium in
respect of such business is com-
pleted."

The motion was negatived.

Mr. Speaker: The question is:
Page 30—
after line 10, add :

"Provided that the chief agent
shall have the option of payment
of a lump sum amount of seven
times the overriding commission
on renewal premiums earned by
him in the year immediately pre-
vious to the appointed day."

The motion was negatived.

Mr. Speaker: The question is:
Page 30, line 10—
for "annually" substitute :
"to him or his nominees monthly."

The motion was negatived.

Mr. Speaker: The question is:
Page 30, line 10—
add at the end:

"and also a lump sum amount
comprising of ten times the over-
riding commission on the fresh
business introduced by the said
chief agent in one year immedi-
ately preceding the appointed day."

The motion was negatived.

Mr. Speaker: The question is:
Page 27—
after line 36 add:

"PART D

The compensation to be given
by the Corporation to an insurer
of less than twenty years' standing
or having only a business or less
than three crores shall be—

(1) Twenty times the annual
average of the share of the sur-
plus of 7½ per cent. allocated to
the shareholders in their latest
valuation; or

(2) on the basis of treating their business as on 19th January, 1956 as a closed business by taking over enough assets to meet the policyholder's liability by an actuarial valuation, the principle of which is to be determined by the corporation and accepted by the company and leaving the balance of the assets, if any, with the company for the benefit of the shareholders, whichever is more advantageous to the insurer."

The motion was negatived.

Mr. Speaker: The question is:

"That clauses 16, 35 and 36, the First Schedule as amended, the Second Schedule and the Third Schedule stand part of the Bill."

The motion was adopted.

Clauses 16, 35, 36, the First Schedule as amended, the Second Schedule and the Third Schedule were added to the Bill.

Clauses 5 to 10, 13 to 15, 17, 18, 20, 21, 23, 24, 26 to 34, 37 to 42, 44 to 49 and clause 1.

Mr. Speaker: The House will now take up clauses 5 to 10, 13, 15, 17, 18, 20, 21, 23, 24, 26 to 34, 37 to 42, 44 to 49 and clause 1. We must close this at 4-30. If hon. Members will take half an hour for this I will give half an hour for the third reading.

EXPUNCTION OF CERTAIN PROCEEDINGS

Mr. Speaker: Before I proceed further I would like to announce to the House that this morning after I gave my ruling and disallowed the adjournment motion, Shri Mukerjee made certain observations both against the Chair and against the ruling. I take very strong exception to those observations. They are very objectionable. I have, therefore, ordered expunction of his observations commencing from "I rise to a point of order" to the end before "I am proceeding to the next item of business."

Shri Nambiar (Mayuram): While he made that observation he had also referred to the point that as Members

of this House we have got a right to move adjournment motions and when adjournment motions are moved it should not be treated as if we are moving them to create some sort of misunderstanding in the country etc. That also was not proper.

Mr. Speaker: But hon. Members will try to restrain themselves. They may have a right to say what they have a right to say. But after I give a ruling, it is not right that they should take exception in the manner in which the hon. Member has said. That is not right.

LIFE INSURANCE CORPORATION BILL—contd.

Mr. Speaker: So, these are the clauses that will be taken up now.

Hon. Members who want to move amendments to these clauses may kindly indicate the numbers of their amendments.

Shri Seshagiri Rao (Nandyal): I want to move amendments Nos. 54, 64 and 65.

Shri M. C. Shah: We shall accept amendment No. 71 by Shri Sadhan Gupta to clause 6.

Shri Sadhan Gupta: I want to move the following amendments:

Clause 6 Amendments Nos. 67, 68, 69, 70, 71, 72 and 73.

Clause 8 Amendments Nos. 152, 154 and 155.

Clause 10.

Mr. Speaker: I believe the hon. Member has got a number of amendments. He may kindly pass on the numbers to the Table.

Shri Tulsidas: I want to move amendments Nos. 4 and 7 to clause 6, amendment No. 8 to clause 8, amendment No. 16 to clause 21, and amendments Nos. 23 and 24 to clause 28.

Pandit C. N. Malviya (Raisen): I want to move amendment No. 205 to clause 40.

Shri Barman (North-Bengal Reserved Sch. Castes): I would like to move amendment No. 193 to clause 15.