

Mr. Deputy-Speaker: Now, we take up the third reading. First, in amendment Nos. 183 and 184, there are certain mistakes that have occurred. The intention has not been made clear by amendment Nos. 193 and 194. So, I shall put the amendments—Nos. 195 and 186—as moved by the Finance Minister to the vote of the House.

The question is:

Page 7, line 34, add at the end:

"in the case of an individual or a Hindu undivided family which consists only of the Karta, his wife and children, and Rs. 10,000 in the case of any other Hindu undivided family"

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Page 6, line 2,—

after "Rs. 5,000" insert "or Rs. 10,000, as the case may be."

The motion was adopted.

Mr. Deputy-Speaker: So, this correction is made. This alteration is accepted by the House.

Now, the question is:

"That the Bill, as amended, be passed".

The motion was adopted.

INSURANCE (AMENDMENT) BILL

Mr. Deputy-Speaker: We now take up the next item, the Insurance (Amendment) Bill for which one hour has been allotted.

Shri Dasappa (Bangalore): Two hours.

Mr. Deputy-Speaker: It is one hour put in here, perhaps by mistake. If it is two hours, it is all right, and I will look into that.

The Minister of Finance (Shri T. T. Krishnamachari): It can be verified.

Shri Dasappa: I remember it. It is two hours.

Mr. Deputy-Speaker: It is two hours. I think it is wrongly entered here.

Shri T. T. Krishnamachari: Mr. Deputy-Speaker, Sir, I beg to move:

"That the Bill further to amend the Insurance Act, 1938, be taken into consideration."

The amendments sought are comparatively innocuous. I shall not take the time of the House with a long speech.

Section 42B provides that no insurer shall transact business through a principal agent after 31st August, 1957; that is to say principal agents as they exist today in the general insurance business will go out of business after that date. These principal agents employ ordinary agents under them who bring in business. Some of them have also been performing some, administrative functions like issue of cover notes and survey of risks. They receive a commission of 20 per cent. of the premium, if it is fire and miscellaneous insurance, and 15 per cent. if it is marine business; out of this they had to pay out the commission to the ordinary agents at 15 per cent. or 10 per cent. of the premium, respectively in the two categories of business mentioned.

Section 42B was inserted in the Insurance Act by the amendment Act passed by Parliament in 1950; thus notice of termination of the principal agency system was given both to the insurers and the principal agents seven years ago. However, the general insurance industry has now taken stock of the situation, and we have also had the position examined. The number of principal agents has remained at about 800, of whom about 340 are individuals, 160 are firms and 300 limited companies. Individuals can under the Act, function as insurance agents; hence principal agents who are individuals will be able to continue in the business. Such a facility will not be available to firms and limited companies as they cannot at present take

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out licences to work as insurance agents. This position is proposed to be remedied by this Bill.

Though the principal agents may consider it a hardship not to continue to be in business, they must have been prepared for this since they were well acquainted with the provisions of section 42B of the Act. However, the industry has now pleaded that the institution of principal agents has been rendering good service and should be continued. In fact, the recommendation of the industry has been that the institution should be regarded as having come to stay. After the country attained independence and more so after the commencement of the Plan, there has been a considerable expansion in industry, and with such expansion, the need for insurance at all stages and of all types has come to receive growing appreciation. To meet this need, many of the companies and firms who have been in the field as Principal Agents have been rendering increasing service to the insured and the insurers alike. By virtue of their practical knowledge of the processes and requirements of the industry, some of them have been in a position to advise the insurance companies about the relative merits of the risks underwritten by them. The industry has, therefore, suggested that it will be in the interest of development of the general insurance business if these companies and firms are allowed to continue.

In short, therefore, the suggestion has been that the system of Principal Agents should not be abolished or in other words that the restrictions imposed in section 42B of the Insurance Act should be removed. This, the Government could not concede. It could not continue to recognise a special or privileged class of agents beyond the period of seven years provided for the Principal Agents to adjust themselves.

Mr. Deputy-Speaker: If the hon. Minister would just give me one second, there has been some confusion

so far as the allotment of time is concerned. There are two Bills. One is the Insurance (Amendment) Bill, for which there is only one hour allowed and that is the Bill that we are taking today. That was notified in the bulletin dated August, 24. There is another Bill that has been introduced some three or four days ago, the Life Insurance Corporation (Second Amendment) Bill. The time allotted for that Bill is 2 hours. So, for the present Bill that we have taken up, there is only one hour. I have interrupted the hon. Minister so that he might also know that the time is only one hour.

Shri T. T. Krishnamachari: I have said that this request for the continuation of Principal Agents could not be conceded; the Act as it stands must remain and the Principal Agency should go. The merits claimed for the system of Principal Agents were no doubt known when this provision was laid down on the statute-book in 1950. It cannot be said that the position has so changed in these seven years that the decision taken in 1950 requires to be reversed.

There is some point, however, in the request that the accumulated experience of these companies and firms and the knowledge acquired by them of the business should not be lost to the industry. It is, therefore, proposed to allow these firms and companies to enlist themselves as insurance agents, as ordinary agents, in the same way as individuals. As I have said earlier, under the present Act, only individuals can take out licences as ordinary agents. Section 42 of the Insurance Act is now proposed to be amended by clause 3(i) of the Bill, to authorise the Controller of Insurance to grant a certificate to any person, that is whether an individual, firm or company, to work as insurance agent. The intention is to continue in the business only those who are at present in it, and only to the extent that they are in it. The Bill, therefore, provides that the company or firm shall procure only general insurance business and further

that it shall have been holding as on the 1st August, 1957, a certificate to act as a Principal Agent. It is merely continuation of those firms and companies, who have been doing this function before, as ordinary agents.

Sub-clauses (ii), (iii) and (iv) of clause 3 are consequential.

The Bill seeks to make one more amendment to the Insurance Act. Section 118 of the Act details the cases where the Act does not apply or which may be exempted from the provisions of the Act. The Act does not apply to any insurance business carried on by the Central Government. The Central Government may, by executive orders, exempt from the provisions of the Act any insurance business carried on by a State Government or any insurance company more than 51 per cent. of whose shares is held by a State Government. The executive orders in such cases will specify the extent to which and the conditions or modifications subject to which the exemption is granted. The House is aware that in the recent past, the Government of India have set up a number of Government companies governed by the Companies Act for various purposes. The business in which some of these are engaged may fall within the definition of one or other of the many types of insurance activity regulated by the Act. As Government companies, their accounts will be subject to scrutiny by the Comptroller and Auditor General. Their other transactions will be subject to general control of Government. Whenever technical advice is required on matters relating to insurance, the help of the Controller of Insurance will be freely taken. In fact, he may even be associated in discussions on policy and while taking decisions. So, in effect the companies will be complying with the requirements of the Act. But under the Act as it stands at present, they will have to submit all formal returns to the Controller of Insurance and be subject to formal control of the Controller as any ordinary private insurer. This will only lead to duplication of effort, which it is desirable

to avoid. Government, therefore, propose to take power to exempt such companies from the regulations of the Insurance Act to such extent as is considered necessary.

The instance which has brought up this issue is that of the Exports Risks Insurance Corporation of India set up by the Government recently in order to provide protection to exporters against risks arising in the export trade. The main classes of risks which the Corporation will underwrite include (a) import and export control risks, (b) insolvency and default risks and (c) war and civil war risks. The various classes of risks covered by the Corporation, including the above, will fall under the head 'miscellaneous insurance' as defined in section 2 of the Insurance Act. The results of working of such a Corporation are, however, generally treated as confidential, more so under the heads I mentioned just now. Considering the extreme importance to our economy at present of stimulating the export trade, the House will agree that certain concessions and subsidies may become necessary if the Corporation is to function successfully. It would not be in the national interest, however, to publish them; and, therefore, the Corporation has to be exempted from submitting some of the returns required under the Insurance Act. The question is now under examination as to the precise nature and extent of the exemption that should be granted to this Corporation.

I would like to make it clear that the power that would thus be conferred on Government, would be used with the utmost caution and circumspection. It is the intention to invoke it only where exemption from the provisions of the Insurance Act is felt called for in the public interest.

Clause 5 of the Bill, while amending section 118 of the Act for the purpose, also aims at a better arrangement of the provisions of that section.

Shri Narayanankutty Menon (Mukandapuram): Mr. Deputy-Speaker, it is necessary at this stage to

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consider the objective of this amending Bill. As the law stands at present, the companies or firms which acted as the Principal Agents both in the life and general insurance business in India could not, as per the existing law, get themselves enrolled as agents in the general business. By this amending Bill, the hon. Finance Minister wants to give to those companies which are acting as Principal Agents in the general business the benefit of enrolling themselves as ordinary agents. The objective, as he has clearly mentioned in the Statement of Objects and Reasons, is to utilise the experience that those companies have in the general business, while acting as Principal Agents.

As it has been said many times on the floor of the House when the Life Insurance Corporation Bill was being discussed, the role of the Principal Agents in the insurance industry has been the subject-matter of much criticism on the floor of the House and also in public. These Principal Agents have been accused many times of mis-managing the funds of the general insurance also of getting unbecoming benefits out of insurers' fund by means of extraordinary and unjustified rebates, by holding out certain concessions out of the commission given to them and thus indulging in unfair and unhealthy competition. If we give the benefit to those Principal Agents to act as ordinary agents in the general business, the net result will be that, apart from the unhealthy competition existing in the industry whereby the big insurance companies are vying with each other by means of giving illegal and unholy rebates and also lower premium rates, these Principal Agents who have got experience in general business and in giving unlawful rebates, will be given another chance to enter the industry and indulge in unhealthy competition. As the law stands at present, as it has been passed by the House, after 31st August, 1957, it would not have been possible for the insurers to have the benefit of this agency.

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Taking into consideration the role that they played, it has been enacted that it is no longer desirable to continue them. Now, is it because of the representation made by the industry to give it a chance of acting as agents that this is being done? If he has considered the point in detail, the role that they played in the general insurance and the import of the original Act, certainly he would not have come with an amendment like this to give these principal agents a re-entry into the business which automatically will bring in a very unhealthy competition which has ruined the industry as a result of which Government has had to step in.

Perhaps it is the intention of the hon. Finance Minister to give incentive to people experienced in the line; it may serve as a fillip to the industry. Then, I wish to point out the incentive he has given to the field staff in the Life Insurance Corporation. It presents a sorrowful picture of declining business as presented by the interim report. He is not at all concerned with any incentives. The decline in business is primarily due to the fact that the field staff are not given any incentive. A regular disincentive has been introduced by the Finance Minister. When the office staff of the Corporation threatened to go on strike on many of their demands, the Finance Minister quite commendably flew to Bombay and settled the differences. But in the case of the field staff such as insurance inspectors, agents and other field staff who were a credit before the Corporation took over, their incentive is being taken away. Their minimum wage and all other facilities and other incentives are taken away and these people are sleeping in their chambers. If the experience is to be utilised, these big firms are not the proper persons; they were responsible for the ruin of insurance and they are not the persons to give incentives. The real persons are the field staff. If he has gone into their grievances and showed as much

concern as he has shown to the staff of the Insurance Corporation, certainly he will be doing an immense service to those who had been given a disincentive. We will also be doing a service to the insurance incentive. We will also be doing a service to the insurance industry in general. As the Finance Minister has placed on record in the Statement of Objects and Reasons that the service of those concerns which have got real merits and experience in the insurance industry should be given incentive, I hope that he will leave no time in giving incentive to the field staff of the Life Insurance Corporation.

Shri Dasappa: Mr. Deputy-Speaker, I rise to speak on this Bill with a certain amount of trepidation. It is for the very obvious reason that in spite of my very sincere and earnest efforts to get the hon. Minister to consider sympathetically the amendments that I have placed, I am sorry I have not met with a ready response which I expected from any person who is interested in life insurance. I may be permitted to state my case briefly.

Insurance is divided into general and life. With regard to general insurance, there have been these intermediaries who are known as principal agents between the insurer and the agents or field workers. They were getting a little higher commission. It is not the question now whether some of them have behaved well or ill. There was that institution of principal agents so far as general insurance is concerned. Their exact counterparts in the life insurance are the chief agents; they were the intermediaries between the insurance company and the agents and the field workers. We did not, rightly, want these intermediaries because of certain of their malpractices which came to our notice and we eliminated them when the Insurance Corporation Act was adopted. There may be differences on that point but they were eliminated.

The question now is whether these principal agents who were having extra privileges as intermediaries should not be permitted to bring their

knowledge and experience to bear upon the work and be permitted to function as ordinary agents. The general insurance companies want to make use of their knowledge and experience. The hon. Minister rightly felt that these insurance companies should have their knowledge and experience but on one condition: they cannot have any extra privileges over the ordinary agents. We entirely agree. I accord my whole-hearted support to this move.

The difference comes when the question is asked: why should not we make the same approach towards the chief agents and special agents in the case of life insurance? They have knowledge and experience which need not be lost. We can have them on identical terms. I do not want these chief agents and special agents in life insurance to be treated differently from the ordinary agents and given any extra privileges. What is wrong with that suggestion? A, B and C can be licensed as individual agents. Why should not A and B together form a partnership and function as ordinary agents with no further remuneration? I fail to understand why this should not be done. If it is an individual, there is a definite handicap. When an individual dies, we do not know what his business is or where it goes. It is all lost to the Insurance Corporation. The Insurance Corporation is the loser and the country is the loser, and the country is the loser, because if an individual dies the whole of his work comes to a standstill; a new man will take to the field with no experience whatsoever. I am reinforcing this view, not from my own facts and figures, but from the interim report which the Life Insurance Corporation has placed in our hands. I shall also give a few figures as to the number involved in this.

So far as the principal agents are concerned it is 802; the chief agents are 323 and special agents 6,359. Now, let us see what progress this life insurance has made subsequent to the nationalisation and the elimination of the chief agents and special agents. You find in 1956 the grand total of

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the amount insured comes to the order of Rs. 200.28 crores. In the previous year it was Rs. 238.30 crores and another sum of nearly Rs. 20 crores in foreign business. Altogether it was Rs. 258 crores. It has now come down to Rs. 200.28 crores. That is so far as 1956 is concerned. Let us remember that this nationalisation took place somewhere in January. I think it was on the 19th January 1956 and the Corporation came into being on the 1st September 1956. So far that whole year there has been a reduction of business to the tune of Rs. 50 crores and more. On the other hand if you take the figures previously every year there has been a tremendous rise.

In 1953 it was Rs. 179.86 crores; in 1954 it was Rs. 249.99, which is as good as Rs. 244 crores. In 1955 it again rose by Rs. 15 crores, that is Rs. 258 crores. The result of nationalisation—I won't say the result of nationalisation, because we are all for nationalisation—has been there has been a reduction by more than Rs. 50 crores. Now I am prepared, as one who knows something of administration to concede that the teething troubles were there. But I say that the business even if it had not mounted up should have at least remained at Rs. 258 crores.

Now let us come to the first half of 1957. I depend again not on my figures,—I should not be mistaken as paying in the same coin—but on the official reports. In the first half year the business was Rs. 73.54 crores, so that if you double it, it will come to only Rs. 140 crores or Rs. 150 crores. Again I want to say something in favour of the Corporation. I say that it is likely that the first half may not have brought them much business and in the second half they may make something more. But I cannot imagine that their turn-over would ever reach Rs. 258 crores, the business that was done in 1955.

Of course Government or the Corporation will reel off any number of reasons or excuses. But I do ascribe a part at least of this fall to the fact

that they eliminated experience and knowledge from the insurance field to a large extent. Here were chief agents and special agents who were giving good business. I know of one unit of a chief agent who was giving Rs. 1 crore of business. All the ordinary agents working under that man together had not given more than Rs. 20 lakhs during the year. I ask why? Every ordinary agent working under that chief agent has been employed and the result is that not even one-fifth of the work has been done. So, there is something to be said in favour of training, experience and knowledge.

When I turn over this very illuminating book what is it that they ascribe this to. There was inadequacy of technical and experienced staff at the various offices, and so on. And with regard to the agents also they say that the agents and other field workers had not got accustomed to the new set-up. Then they say that they have recruited about 20,000 new people and they want to train those people. This is a very nice way of developing insurance in the country? Here we are brushing aside experience and knowledge and treating them with scant courtesy and we go about searching for new men. In fact, there has been a tremendous search for new hands, and then we want to open training courses for them. I read from paragraph 25 of the same brochure:

“One of the reasons for the low average productivity of agents in the past was that the agent did not receive any training in insurance salesmanship. This deficiency is sought to be remedied and steps are being taken to provide systematic training, and so on.”

This is essentially a question of salesmanship and salesmanship does not come through university education or through anything like that. Salesmanship is a thing which is born out of abundant experience in the field and I am surprised that the

experience of these chief agents and special agents should have been ignored.

Now what do I say? I say that they may be treated as ordinary agents and no more than ordinary agents, and also I agree with the principle that we need not go about giving this licence to new companies and new firms. This amendment only seeks even in the case of general insurance to licence those companies and firms which were there already in the field prior to a certain date, 1st August or so. Even so, in the case of life insurance I do not want to open the flood-gates and ask for the licensing of all and sundry firms and companies. I only say that they may come in if they had done good business prior to the nationalisation of insurance.

The other point which is very important to be borne in mind and which I do not know why the Finance Minister is unable to see, or even if he sees he is unable to accept or agree, with me is that this is merely an enabling provision. There is no commitment on the part of the Life Insurance Corporation. It simply lifts or removes the ban on the employment of a company or firm which has already been there from being employed as an ordinary agent. Why should we prevent the Corporation, if it so chooses to have a company to function as an ordinary agent. There have been various approaches at various levels, the level of Ministers, the level of the Board, and let me assure this House there has not been a single voice against this idea of licensing those firms and companies which the Corporation may choose as ordinary agents and nothing more. I fail to understand why the hon. the Finance Minister has taken up this rather unsympathetic attitude.

There is only one thing more which I would like to say before I conclude.

Mr. Deputy-Speaker: The hon. Member was perhaps not here; we have got only one hour for this Bill and not two hours.

Shri Dasappa: How did that happen in my absence?

Mr. Deputy-Speaker: Of course that is very pitiable, but it has happened.

Shri Dasappa: I always bow to the ruling of the Chair. It does not matter to me.

Mr. Deputy-Speaker: There is no question of any ruling by me. That is an order of this House. The House accepted it. This is the first amendment. The hon. Member was perhaps under the impression that this is the Second Amendment Bill.

Shri Dasappa: Sometimes we do commit mistakes, I do not deny. I am very sorry that I gave that wrong idea to the Chair. I was saying that it is a purely permissive one. And I am doing this in the entire interests of the life insurance work and of the Life Insurance Corporation. There seems to be an idea that this life insurance work, this great work of mopping up the surplus funds in the hands of people and other savings is the responsibility only of the Ministry or the Corporation. I resent an idea like that. It is nobody's private property; it is a national concern primarily of Parliament which has got to see that the Second Plan functions well. And we cannot be participants and sharers in the idea of decreasing the life insurance business, in the country. Therefore I say it cannot be pleased, as I am anticipating—may be that my anticipation is wrong,—that the Corporation has not been consulted. Who prevented them from consulting the Corporation, in the first instance, and in the second instance where is the need for it? This is a permissive thing. If the Corporation does not choose to license a firm, let it not. There is no obligation on the Corporation to license any firm. When are we to bring an amendment if and when the Corporation wants to license? There must be a separate amending Bill, either a private Bill or a Government Bill, and we must go through the whole gamut again. Meanwhile business will escape and these com-

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panies will be liquidated. We have to look at these things. Therefore, viewed from any point of view, this is a just amendment and an unexceptionable one, and with all the sweet reasonableness that is at my disposal I appeal to the hon. Minister to accept it.

Shrimati Ila Palchoudhuri (Nabardwip): I have already asked of the Finance Minister about my amendment, but he does not seem to be in a mood to accept it. But yet I will commend it to the House because it is an amendment that is really very innocuous. It only seeks to get out of that clause the general insurance companies that have been taken over by the Corporation.

Clause 5 of the Insurance (Amendment) Bill seeks to substitute a new section 118 in place of the old section. Sub-section (c) of the proposed new section 118 provides *inter alia* that nothing in the Insurance Act shall apply to any insurance business carried on by the Central Government. After the nationalisation of life insurance business, three general insurance companies have come under government management. These are the Oriental Fire and General Insurance, which was only a subsidiary of the Oriental Life Office, National Fire and General which was a subsidiary of National Insurance Company, and the Asiatic Government Security Insurance Company.

The effect of the proposed new section 118 will lead to these three companies being exempted from the purview of the Insurance Act. This would really place the other general insurance companies in a very disadvantageous position. If the Government is going to run things as a business, private general insurance must have a chance to show its own merit. If these three general sections are with the Government, then when the clients with the Corporation want to do general business there will virtually be a moral pressure on them to insure for fire etc. with these three companies. And that would place the

private sector, which is already suffering in a rather, shall I say, bad way on account of the Corporation having taken over the life insurance business, in a disadvantageous position. The Corporation must also play fair and give the private sector every kind of advantage so that it can also show its mettle. Sir, it is a known fact that the business of insurance has gone down since it has been nationalised. Whatever the case may be, I am all for nationalisation if it is really for improving our exchequer and if it is going to improve the business. But as it stands today, surely general insurance has not yet wholly come under the purview of the Corporation, and if my amendment is accepted I think they will get a better and fairer chance of functioning, and that will be really cricket on the part of Government.

Shri Keshava (Bangalore City): I also welcome this Bill. I have had the impression that a very great and desirable change has been brought about in the mind of the hon. the Finance Minister particularly after the recent elections when he was pleased to go about the slum areas in the City of Madras. He has ceased to be adamant, and whenever he sees any reasonable suggestions he has always been open to conviction. But somehow in this particular case I cannot understand why he not been, in spite of the fact that so many figures, favourable figures, have been pointed out as also the fact that there has been so much of loss of business, crores of business in this national industry; and I cannot understand why we should allow this talent to be wasted. It will amount to a very serious national loss. And the figures speak for themselves. There are so many Chief Agents, as we can see by the figures, that have done business. They have been able to do 70 per cent. of the business which all the other companies have not been able to do. And I really cannot understand why they cannot be allowed agency of an ordinary type as we now

propose to allow for the Principal Agents by this amendment. This Bill is most welcome, but it admits of a little improvement, and that improvement is being denied very unjustly. I appeal to the hon. the Finance Minister in the interests of the national industry, we should not allow this talent to go waste. There is a world of difference between a person doing business in his own individual name and under the credit and goodwill of the firm to which he was attached till now. We are only appealing in the larger interests of the industry itself that the same considerations that we now seek to allow for the Principal Agents may be allowed to the Chief Agents, to those who deserve. I do not agree with Mr. Menon's observations that we should wholesale condemn the whole community of these agents. Of course some of them might have been very bad. But in deserving cases where they have been doing business prior to the nationalisation of this industry, if they are deserving of such consideration, such of them may be permitted the same relief that we are now seeking to permit to the Principal Agents. With these observations I request the Finance Minister to reconsider the matter.

Shri T. T. Krishnamachari: Mr. Menon's attack is a thing which I was quite prepared for, for the reason—again, it seems to be that I am always in bad company—for the reason that in 1949 when this Act was amended some of us who were here then held the view that the system of Principal Agents should go, and there was a compromise that was effected that we should allow them seven years to go. As I said in my opening remarks, what was required by the recommendations made by the industry was that the provisions of the Amending Act of 1950 should be abrogated and the position as it was obtaining until 31st August should continue, namely that the *status quo* must be maintained. When I saw the recommendations, vague memories were stirred, and when I looked up the proceedings of the House and the

Select Committee I found that I had myself taken some part in this particular amendment. If I had succumbed to the suggestion made that the Principal Agents should continue, I have no doubt my friend Mr. Menon or somebody else would have a deadly case to make against me, only if they had gone back and studied the proceedings. The fact really was we felt very strongly about it, and I do not see any reason why we should feel differently now. But it was mentioned that changes have not been made in the set-up and that if they continue to act as ordinary agents, they lose five per cent. commission. No new persons will be allowed to come in and in the period of transition they might continue for some time, till such time as they want to continue. May be many of them would give it up progressively. It is a question of disbanding the staff and paying them compensation. We did not want to create a change of that nature, particularly when the industry had felt that they might be given a chance to continue for some time, and I think on the basis of the recommendations of the industry they thought the Government would accept the position. So, this *via media* was sought and I have put forward this proposal. While I agree the system of principal agents has not been a good thing, we do not want it, we do not mind these people continuing for some time, until they themselves feel it is not good enough, that the income is not enough, that they have to work through agents and give it up. It is more or less what you might call a temporary matter.

Then, the other fact also to be conceded is this that still the business of general insurance is in the hands of private people, and some elasticity has necessarily to be allowed to them so as to enable them to function. That is the reason why I brought this amendment, and though what Shri Menon has said perhaps reminds me of what I used to say in the past, I do feel in the circumstances of the case what we have done is not a

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serious departure from principle, and should enure to the benefit of the business as a whole.

The point that was made by Shri-mati Ila Palchoudhury is something which the House would probably not comprehend. What she seeks to do by her amendment is to say that the exemptions proposed under section 118 as it would be should not be made in regard to those three general insurance companies which are Government-owned today, which function amongst a large number of private insurance companies, that the exemptions should not be given to these general insurance companies which would be discriminatory in character and would help them unduly as against the private insurance companies. I mentioned to her that we could not afford to have any exemption which would be discriminatory in character, which would help these three Governments insurance companies doing general insurance business as against the private insurance companies, because then we shall be attracting the provisions of article 14 of the Constitution. That is the safeguard. The safeguard is not putting in a statutory provision, tying up your hands. It may be that in some matters of form or something like that, something is possible, but essentially Government cannot make a discrimination and treat these companies differently. Of course, Government would be perfectly at liberty to do their own business with the Government insurance companies, but I may tell my hon. friend that I had even there told the authorities that we should diminish our business progressively. We should give fifty per cent. of the business to the private insurers, even though my hon. friend opposite may ask: why are you throwing away money like that? Because they have been accustomed to get 100 per cent. of the business, and you cannot cut it out straight-away. Even if you have to diminish, it has got to be progressively done. But any act of discrimination is a thing which Government cannot

undertake because the provisions of the Constitution stand as a bar against our doing anything of that nature. So, I would like to assure my hon. friend that our amendment is not discriminatory and that her amendment is not necessary.

My hon. friend Shri Dasappa was very vehement. The trouble about his vehemency is that he has no case to make and therefore he has to make it up by means of vehemency.

Shri Dasappa: Hear, hear. It is a wonderful argument.

Shri T. T. Krishnamachari: Not that I mean to say that I have anything like his experience as an administrator. The point about it is that it reminds me of the question of the hobby horse.

There is an amendment, and I think it is certainly right that the hon. Members of this House should scrutinise these amending Bills, point out what is wrong and improve them, but what he has felt is: he heard something is being done in regard to general insurance. Then, why not do it in the case of life insurance? Having thought about it, he said: let me put in these amendments. If I had brought in the original proposition as it was recommended, namely that these principal agents should continue for another five years more, I am sure my hon. friend's amendment would have been. We should continue the special agents, the chief agents. Since I have not done it, he says these people can be there, and they can be ordinary agents. So far as the provisions of section 36 of the Insurance Act are concerned, it is obligatory on our part. The system of special agents and chief agents has gone. He says you are not employing firms, you should employ firms. May be it is a point of view which has to be examined, but in this particular matter I am only concerned with a very narrow aspect in regard to the continuance of these firms in their capacity as

agents. That is in regard to general insurance business. My hon. friend says: you might put out an argument that you will have to consult the Insurance Corporation; why should you consult them? This is permissive. I am afraid we are not used to pass legislation of that nature here. After all, you cannot bring in an amendment which is not intended, where it is not our intention to cover a large section of insurance which is governed principally by the Insurance Corporation Act and incidentally by the Insurance Act here, because having made life insurance the responsibility of Government and put it in the hands of the Life Insurance Corporation under a separate enactment, to that extent many of the provisions of the Insurance Act have fallen into desuetude. What is the use of merely saying that he is giving us an enabling power if actually the Life Insurance Corporation does not want to appoint these people again, the firms as agents. What is the use of the enabling power? And the present situation is that the Life Insurance Corporation does not want to do so. Whether it should be made to do so is a different question, a different issue. Of course, criticism of the Life Insurance Corporation....

Shri Dasappa: May I know whether it has passed any resolution to that effect?

Shri T. T. Krishnamachari: The trouble about the Life Insurance Corporation is that it is not such a sensitive organisation as to sense immediately the creation of a new idea in the mind of an hon. Member in this House. Had they known that Shri Dasappa was going to move an amendment of this nature, they might have considered it, but I do not think they knew anything about it. The idea is entirely his own, it started in his mind.

I am only pleading, I am not even discussing the merits of the amendment, I am not competent to do so. I cannot bring out arguments in the face of an experienced persons like

Shri Dasappa to refute what he says. I am merely saying this is a matter that has to be examined. I have not examined it, and therefore for the simple reason of my ineptitude and incompetence to understand the working of the mind of my hon. friend Shri Dasappa, I have to plead that I am unable to accept his amendment.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Insurance Act, 1938 be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Amendment of section 42)

Shri Dasappa: I beg to move:

(1) Page 2, line 4,—

omit "immediately".

(2) Page 2, line 6,—

after "agent" insert "or as a chief agent or a special agent".

(3) Page 2,—

omit lines 8 to 11.

Shri Balasaheb Patil (Miraj): I beg to move:

(1) Page 1, line 15,—

for "person" substitute "applicant"

(2) Page 2, line 34,—

after "shall" insert "without prejudice to any other penalty or liability to which he may be liable".

(3) Page 2, line 38,—

after "shall" insert "without prejudice to any other penalty or liability to which he may be liable".

[Shri Balasaheb Patel]

(4) Page 2, line 35,—
after "rupees" insert—

"and he shall forthwith refund the amount so collected to the persons insured".

Shri Dasappa rose—

Mr. Deputy-Speaker: He has already advanced arguments.

Shri Dasappa: It looks as though there is need for a little more say.

The hon Minister said that I made up the lack of argument with vehemence. I am also old enough to give back a similar reply to his arguments. I wish instead of bandying these words across, the points that I raised had been replied to, with vehemence or without vehemence, I would have no objection—I am not in the least worried about that.

Let us just see what we have done in the Life Insurance Corporation Act with regard to these chief agents and special agents. Section 36 is the one to which the hon Minister referred.

It simply says that we would not countenance anybody between the insurer and the agent such as the chief agent or special agent. In my opening speech, I conceded this fact. I am not in favour of principal agents or chief agents or special agents. Why there should be any trouble about it resulting in this argument and reply in that manner, I do not understand.

The other point made by the hon Minister is that the Corporation has no idea about this. May I say that I wrote to the then hon Finance Minister that if the chief agents and special agents could not remain there as such, the institutions acting as intermediaries between the insurer and the agents may be enabled at least to function as ordinary agents, so that their experience may not go to waste. I am very sorry to say that I have not got the reply which the hon. Minister gave. He said that that

was a matter which was under consideration. Then how is it possible for anybody to say that this matter had not been brought forward? Subsequently, the Corporation has been addressed to by the Association at Bombay which represents a large body of chief agents and special agents, and by the Association here in Delhi which represents a large number of such people.

I can produce copies and pass them on to my hon friend. It would be very very unfair to say that the Corporation has not been approached in this matter. If the Corporation has not chosen to take action immediately thereon, is it my fault or is it the fault of the chief agents or special agents? Is it the brain-wave of an hon Member, as he says, who took it into his head, and therefore, he is saying it? Let us be fair to one another. I would beg of the hon. Minister not to say such things with regard to his colleagues here. After all, he is there today. Tomorrow somebody else, some other MP, may be in that position. So it does not lie in the mouth of anybody to offer such compliments to one's own colleagues.

Shri Narayanankutty Menon: Colleagues and Members of the Opposition.

Shri Dasappa: Everybody.

Mr. Deputy-Speaker: First colleagues and then Members of the Opposition.

Shri Narayanankutty Menon: It must be the other way.

Mr. Deputy-Speaker: But everything does not move according to the hon Member's wishes.

Shri Dasappa: Therefore, the point that this has been suddenly sprung upon the House made by the hon. Minister is not correct.....

Secondly, I would ask anybody to tell me where else I must bring in

these amendments, where else amendments are to be incorporated? Is it in the Life Insurance Corporation Act? Could he say so? Or is it in any other piece of legislation except this? It will be seen that clause 2 says:

"In section 2 of the Insurance Act, 1938 (hereinafter referred to as the principal Act), in clause (10), the words 'being an individual' shall be omitted".

So what I have suggested is merely what is known as a consequential amendment. The word 'individual' is omitted. Formerly, they wanted to confine this function of agents only to individuals, but now very advisedly and very wisely they have taken off the word 'individual' so that anybody can be there. Clause 3(1) says:

"In section 42 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Controller or an officer authorised by him in this behalf shall, in the prescribed manner and on payment of the prescribed fee which shall not be more than ten rupees, issue to any person making an application....."

Formerly in the Insurance Act, it was the individual but now it is 'any person', and 'person' includes corporations, companies, firms and so on.

What I seek to do is to bring about a consequential change and complete the picture as regards these firms and companies. What sin have I committed in bringing forward these amendments? May I be enlightened, and may the House be enlightened, by the hon. Minister as to what he is proposing to do? I would be very very grateful to him. What pleasure do I derive by saying that my amendments alone must be accepted and I must get kudos? We want the Life Insurance Corporation to function efficiently and well and business to improve. If the hon. Minister says,

here is a good point, a very wise thing. I will bring an amending Bill in order not to allow those firms and companies to go into liquidation; in the meantime, let us proceed with this, that is a position which I would gladly accept. Let the House decide upon my code of conduct.

Shri Balasaheb Patil: My amendments are Nos. 5 to 8. These are nothing but formal amendments.

The first refers to sub-clause (1). It refers to any person making an application. This sub-clause speaks about issuing certificates. I want to substitute the word 'applicant' for 'person'. The clause further says that certificates can be issued to an individual as well as to a firm or company. Even though the word 'person' may include firm or company, in order to remove all doubts, the more comprehensive word 'applicant' may be used so that it may cover both cases. So my first amendment has been moved in order to improve the wording so that there shall not remain any doubt whatsoever in the mind of the person making the application and the person sanctioning the application.

The other amendments are in respect of sub-clauses (5) and (7). Under sub-clause (5) says that if it be found that an insurance agent being an individual is, or being a company or firm contains a director or partner who is suffering from any of the disqualifications etc., then without prejudice to any other penalty to which he may be liable, the licence may be cancelled. These words 'without prejudice to any other penalty to which he may be liable' are used here. But in sub-clause (7) we find that if a person acts as insurance agent without holding the licence, he shall be punishable with fine. Here also, we should introduce the words 'without prejudice to any other penalty or liability to which he may be liable', because whenever all these sections are to be read as part of a Bill or Act, they have the same

[Shri Balasaheb Patil]

meaning. But if we read the sub-clause as it is, without these words, if and when a third person or the State has any remedy against the person defaulting, it would seem that the intention of the House may be taken by the court at that time that he is not liable for other penalties. In order to guard against that, these words should be introduced here also.

The further thing I want to add is this. Suppose a person gives some money to a person who has no licence whatsoever. Then his remedy is to go to the civil court and get back that amount. Instead of doing that, whenever that person is prosecuted and fined under this sub-clause (7), the same court may order the person to refund that amount. This is the object of my amendment No. 8.

Shri T. T. Krishnamachari: As regards the amendments moved by Shri Dasappa, I do not think there is any point in my answering him. I have answered the point already, and do not want to make another speech on it.

As regards the amendments moved by Shri Balasaheb Patil, I am advised that the first two amendments moved are unnecessary and the third one is something which cannot be undertaken at the present moment. I have to do it by means of a comprehensive amendment. As regards this question of any money collected unlawfully or which could not be passed on to the insurer, whoever it might be, the thing has to be dealt with from a wider angle than from the narrow angle of this particular amending Bill. Therefore, I am unable to accept these amendments.

Mr. Deputy-Speaker: I shall now put all the amendments to clause 3.

Mr. Deputy-Speaker: The question is:

Page 2, line 4,—

omit "immediately".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, line 6,—

after "agent" insert "or as a chief agent or a special agent".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2,—

omit lines 8 to 11.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 1, line 15,—

for "person" substitute "applicant"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, line 34,—

after "shall" insert "without prejudice to any other penalty or liability to which he may be liable".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, line 38,—

after "shall" insert "without prejudice to any other penalty or liability to which he may be liable".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 2, line 35,—

after "rupees" insert—

"and he shall forthwith refund the amount so collected to the persons insured".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 3 stands part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clauses 4, 5 and 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 4, 5 and 1, the Enacting Formula and the Title were added to the Bill.

Shri T. T. Krishnamachari: Mr. Deputy-Speaker, Sir, I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

LEGISLATIVE COUNCILS BILL

The Minister of Law (Shri A. K. Sen): Sir, I beg to move that the Bill to provide for the creation of a Legislative Council for the State of Andhra Pradesh and the increasing of the strength of the Legislative Councils of the States having such Councils and for matters connected therewith, be taken into consideration.

In moving this motion it is necessary for me to state the circumstances which have necessitated this particular measure. There are two statutes which have made this measure necessary. The first is the Constitution (Seventh Amendment) Act, which increased the strength of the Legislative Councils from one-fourth of the membership of the Legislative Assemblies to one-third of each State Assembly.

The second is the State Reorganisation Act which, first of all created a Legislative Council for the new State of Madhya Pradesh. And, it also reorganised certain States more or

less extensively which were already enjoying Legislative Councils; Bombay, Mysore and the Punjab, underwent substantial changes in territory which has also necessitated the reorganisation of their respective Legislative Councils.

Hon. Members will recapitulate that the States Reorganisation Act laid down the manner in which the Legislative Councils of the newly created States of Bombay, Mysore and the Punjab would function, first of all, before their reconstitution and, secondly, after their reconstitution. So far as the State of Madhya Pradesh was concerned, the States Reorganisation Act did not contemplate, first of all, an interim reorganisation and, secondly, a final reorganisation. It has, therefore, become necessary to provide for the final constitution of the Legislative Councils of these reorganised States and also of the State of Madhya Pradesh.

Secondly, it has become necessary to increase the strength of the Legislative Councils in accordance with the Seventh Amendment of the Constitution which raised the strength of the Legislative Councils to one-third really a ceiling of one-third of the total membership of the Lower Houses.

Hon. Members would have noted in the Bill the provisions which are intended to give effect to this two-fold purpose. First of all, the requirement for reorganising the Councils in the newly re-constituted States of Bombay, Mysore and the Punjab and also Madhya Pradesh; and, secondly, to give effect to the increased representation in the Legislative Councils in accordance with the Seventh Amendment of the Constitution.

It is necessary to state here that we have not, in the Bill, given effect to the maximum increased strength allowable under the Seventh Amendment of the Constitution. We have increased the strength so that the Upper Houses may represent roughly 30 per cent. of the total membership