

COUNCIL OF STATE DEBATES

TUESDAY, 16th NOVEMBER, 1937

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OFFICIAL REPORT



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COUNCIL OF STATE.

Tuesday, 16th November, 1937.

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Honourable the President in the Chair.

QUESTIONS AND ANSWERS.

INDIAN BOY SCOUTS' ORGANIZATION IN TANGANYIKA.

324. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: (a) Is there an Ordinance in British East Africa for the protection of the activities and interests of the Baden-Powell Scout Association of Tanganyika, under the terms of which no one is authorized to wear uniform, badges, token, emblem, etc., otherwise than under the authority of the Baden-Powell Boy Scout Association?

(b) Under the aforesaid Ordinance, is it not lawful for any person to form, organize, or work, any Boy Scouts' organization, except under the rules of the Baden-Powell Boy Scouts' Association?

(c) Had the Indian community in Tanganyika territory a Scout organization affiliated to the Baden-Powell Association, which has been disaffiliated as a result of the wide spread agitation against the latter?

(d) Did the Scout organization of Tanganyika want to be affiliated to the Indian Seva Samiti Boy Scouts' Association, but was not allowed to do so on account of the Ordinance?

(e) Do Government propose to enquire into the matter, to make a full statement of facts, and to state the nature of the action taken?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) to (e). Enquiries have been made and a reply will be furnished to the House in due course.

DISAPPEARANCE OF PRINCE SARDAR MUHAMMAD UMAR KHAN, AFGHAN POLITICAL PRISONER.

325. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Has Sardar Muhammad Umar Khan, the Afghan Prince, who was interned in Naini Tal under Regulation III of 1918, recently made good his escape? Will Government state the circumstances relating to his disappearance, and the steps taken subsequently?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sardar Muhammad Umar Khan, whose movements were restricted under Regulation III of 1918, eluded police surveillance and disappeared early in October. He is reported to have gone to the frontier but his exact whereabouts are unknown. Every effort is being made to trace him.

NOTING OF NAMES, ETC., AT KALKA AND TARADEVI.

326. THE HONOURABLE MR. B. N. BIYANI: (a) Why are the full names, addresses and occupations of passengers travelling to Simla noted at Kalka and again at Taradevi station?

(b) Through what Department is this work done?

(c) If the Department concerned is not the Police Department, are the men of the Department concerned not instructed to put on their uniform or badges?

(d) Are there any rules in this connection?

(e) Is each and every passenger bound to supply the information asked for and to sign his name?

(f) If any one refuses, is he liable to prosecution?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) to (f). It is understood that the procedure referred to in part (a) of the Honourable Member's question is followed at Taradevi in pursuance of Simla Municipality Health Regulations. The Central Government have no further information on the subject which is the concern of the Government of the Punjab.

 INSURANCE BILL—*contd.*

THE HONOURABLE THE PRESIDENT: The debate on the Insurance Bill will now be resumed. As this is an important Bill, I would like to give an opportunity to all those Honourable Members, who desire to speak on the Bill, to do so.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise to support the Motion made by the Honourable the Law Member to take the Bill as passed by the Legislative Assembly into consideration. We are thankful to him for having elucidated a few points on which we felt some difficulty when we read the Bill as it emerged from the Legislative Assembly. I join the Honourable Sir Phiroze Sethna in congratulating the Honourable the Law Member on the able manner in which he piloted this Bill through the Legislative Assembly. It is on the whole a healthy and robust child. We in this House realize that we are only a revising Chamber and are here to improve the Bill and make it stronger and more beautiful, if we can, and not to interfere with it in any substantial manner.

Sir, the demand of the Indian public in regard to insurance legislation is fourfold. First of all, we wanted a comprehensive measure dealing with all forms of insurance and not only life insurance as the Act of 1912 did. In this matter the Bill satisfies our expectations. Though most of the Bill is devoted to life insurance, yet the provisions of it relating to various other forms of insurance are designed to give protection to Indian insurance companies transacting all kinds of insurance business. The special provisions relating to provident societies as well as mutual and co-operative life insurance societies constitute also welcome feature of the Bill. I would not take up the time of this House in dealing further with the scope of the Bill. I am unable to agree with the observation made by Sir Phiroze Sethna that it is really not a comprehensive Bill, that it is one-sided, and that it has given more attention to life insurance business than to other forms of insurance; I am unable to associate myself with that criticism of the Bill. The second demand

of ours was to give adequate protection to Indian companies against foreign competition. In this matter I feel that the Bill has not fulfilled the expectations of the Indian public. I will say something about it a little later. Our third demand was that the legislation should prevent the multiplication of weak and unsound concerns in the future and eliminate such of them as are in existence today, because they are a real danger to the insuring public. Our fourth demand was the safeguarding of the interest of policy-holders, who buy policies, from exploitation by the proprietary concerns, who sell policies to them. In regard to these two matters, viz., the elimination of weak and unsound companies and the protection of the policy-holder, I think the Bill is satisfactory on the whole, though there are some provisions which might have been a little better and to which I shall refer a little later. Sir, on the second demand, viz., that the legislation should grant adequate protection to Indian insurance companies against foreign competition, I must say that I feel disappointed by the provisions of this Bill. There are, I realize, in the Bill provisions for retaliation and the imposition of reciprocal disabilities, viz., clause 3 (3) which speaks of retaliation and clause 53 which deals with the imposition of reciprocal disabilities. Under clause 3 (3), the Superintendent of Insurance is empowered not to register any non-Indian concern if the country from which that concern comes imposes any disabilities on Indians carrying on insurance business. If the law of that country disables or debar Indians from carrying on business there, this clause empowers or rather makes it obligatory, more or less, on the Superintendent not to register such a concern here. But I feel that in practice it means nothing and it is wholly illusory. The position of Indian companies in foreign countries is very different from the position of foreign insurance companies doing business in India. In the first place, foreign companies in India are much more powerfully organised. They enjoy a large amount of patronage from the State in this country in various ways. A more important thing to remember is that there are very powerful vested interests in this country which make common cause with the foreign insurance interests and make it almost impossible for Indians to dislodge them. For instance, the powerful British shipping interests and the powerful British banking interests in this country stand solidly by the foreign insurance interests, and put Indian insurance concerns at a great disadvantage. Sir, in the Indian Central Banking Enquiry Committee, of which I had the honour to be a member, a great deal of evidence of a reliable sort was given to show that the foreign shipping concerns and foreign exchange banks generally speaking had put Indian companies at a great disadvantage. Indian exporters and importers in this country cannot get the British ships to carry their goods unless they are insured with a foreign insurance company and the exchange banks will not give financial accommodation facilities to the export and import trade conducted by Indians, unless their goods are insured with foreign insurance companies. This is not denied. In fact the Chairman of the Association of the Exchange Banks Mr. Buckley, who was on the Committee with me, admitted that there was some discrimination in this matter and he said that the Exchange Banks would address their head offices in London and get our grievances redressed. I am not aware whether anything has been done in that direction by the head offices in London. Even now I hear that the foreign shipping and banking interests in this country are still a great menace to the Indian insurance business. Therefore, to speak of reciprocity between Indian companies working in foreign countries and foreign companies working in India is to speak of reciprocity between an elephant and a mosquito. An Indian insurance company is nowhere in foreign countries, and we have no Indian shipping or banking interests there to help Indian insurance business. Therefore, situated as we are, we have

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a right to expect the Central Legislature and the Central Government to give more real and effective protection to Indian insurance business against foreign competition than the Bill has given as a matter of fact.

Sir, there is at least one matter in regard to retaliation in which the Bill might have been a little more forward and progressive in protecting Indian interests. Clause 3 (3) empowers the Superintendent of Insurance not to register a foreign company if the practice and law of insurance in that foreign country debar Indian concerns from transacting insurance business there. It is a very, very limited protection. Sir, there are certain countries who shut out Indians altogether, not only from the insurance field but even from setting their feet on their soil, except perhaps as indentured labourers. They prevent Indians from acquiring any proprietary rights in their soil or owning any property or having any substantial interest in the trade or commerce of that country. Such countries do not require to pass any legislation specially debarring Indian insurers because they practically prevent every Indian enterprise from getting a foot-hold there. Take two countries like South Africa and Zanzibar, for instance. In these countries, Indians who have already got some foot-hold are being treated in such a way as to force them to leave those countries. In Zanzibar, we know all about the fate of Indian clove growers. South African insurance concerns and Zanzibar insurance concerns can get registration in this country simply because there is no law specially dealing with insurance which debar Indians from pursuing the business of insurance in those countries. What I am submitting is that the laws are so anti-Indian as to shut out Indians altogether from the soil. It is therefore strange that the Government of India should restrict the operation of clause 3 (3) to refusing registration to companies of only such countries as discriminate against Indians only in the matter of insurance business, in their own countries. I feel that the Government of India might have imposed greater disabilities upon countries in which Indians are subjected to various disabilities, not only in the matter of insurance business but also in regard to other rights. I feel that the Bill has not given adequate protection to Indian interests which could have been given even with the limitations imposed by the Government of India Act of 1935. I am fully aware of the handicap under which the Government of India has to frame this Bill, having regard to the provisions of section 113 of the Government of India Act. Nevertheless, even with that handicap, in the case of companies other than United Kingdom companies, much more could have been done without infringing the provisions of any law, and I wish the Government of India had taken courage in both hands and given greater protection for Indian companies than they have actually done against non-Indian competition.

With regard to the question whether these non-Indian companies, of non-British origin, are or not really entering into unhealthy competition with Indian companies and whether they are or are not dumping insurance on this country, I feel that the evidence laid before the Advisory Committee and the materials supplied by various Indian companies to the Members of the Central Legislature, clearly prove that such dumping and unhealthy competition do exist. I am somewhat surprised at the very breezy manner in which Sir Phiroze Sethna yesterday disposed of this complaint. He merely said that the representative of the Indian concerns who gave evidence before the Advisory Committee had practically to give up his case. I am not prepared to accept that statement. I have carefully read the evidence of Mr. Duff of the New India who had been selected by the Indian companies to represent their case before the Advisory Committee and I think he has given tangible

proof, much of which is supported by documents, which clearly shows that there is both dumping and unfair competition. I do not know how Sir Phiroze Sethna could so easily have disposed of the evidence of Mr. Duff without controverting the facts placed before the Committee by him and alluding to the various documents on which his evidence was based. I do not wish to trouble the House with reading extracts from that evidence because, every Member of this House, I believe, has got a copy of Mr. Duff's evidence, and I will ask them to read it once more before we conclude this general discussion on the Bill, and if anybody can refute those facts and arguments, I shall be glad to hear their case. Sir, I am convinced that there is a great deal of unfair competition and dumping by foreign companies in the insurance field in India and to that extent Indian companies are greatly at a disadvantage. In fact, I felt as I listened very carefully to Sir Phiroze Sethna's speech that what he said was itself sufficient to substantiate the Indian case. His whole argument was that the Canadian companies with which he was familiar, particularly the one with which he was connected, were in a very strong position to give efficient and cheap service to the Indian policy-holders. He said, "We are able to give you cheap service; we are able to give you good service; therefore encourage us." That is not a new argument. It is the old argument of all foreign suppliers of goods and services to this country that because they can render cheap service, India should prefer them. There is in this plea the implied admission that they are competing with Indian concerns. Sir, the Exchange Banks say, "Our charges in foreign exchange business are so low that you Indians have no reason to complain. If you start an Indian exchange bank for doing foreign exchange business you cannot give India such cheap service." The British shipping concerns say, "If you start an Indian Mercantile Marine, your ships will not be able to give such efficient and cheap service as we do". So do the Lancashire millowners say. They say, "If you start mills, you cannot supply cloth as cheap as we can do it from Lancashire". This is a very old argument. I am surprised that Sir Phiroze Sethna, the Indian patriot as he is, played the role of the foreign exploiter in this country. I will leave it at that. I think that Indian insurers have substantiated their case that there is both unhealthy competition and dumping by foreign companies, and this Bill could easily have given greater protection to them than it has done.

Sir, we are thankful to the Honourable the Law Member and to the Legislative Assembly for the provisions that this Bill contains in regard to foreign companies inadequate as they are. They are required to invest cent. per cent. of their assets to cover their Indian liabilities; they are required to prepare separate accounts and statements relating to Indian business and furnish them to the Superintendent, like Indian companies. These are all very wholesome provisions and to that extent they are certainly helpful to the Indian business. My friend, Sir Phiroze Sethna, said that if a Canadian company was asked to invest its assets in India in regard to its Indian business, its otherwise strong position would be weakened. I fail to see how. He has warned us with a notice of his intention to move amendments to undo these provisions in the Bill. I hope that every Member of this House, Indian and non-Indian, will resist Sir Phiroze Sethna's amendments, and I hope all of them will be defeated. He made a very astounding statement, namely, that though non-Indian insurance is not a national industry yet it is a national asset. I fail to see how a foreign interest can be a national asset for India. It is neither a national industry nor a national asset. He has got to substantiate his case, and if he has a case I hope he will try to convince us when he

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moves his amendments to the provisions contained in the Bill in regard to foreign companies.

Sir, coming to some of the detailed provisions of the Bill, the most important one is that relating to the managing agents. The stand which the Law Member has taken against the system of managing agency and managing agents has, on the whole, I think, the general support of the Indian public. Speaking for myself I am in entire agreement with the provisions of this Bill in regard to managing agency. At the same time I must say that after speaking to many of those who advocate the continuance of the managing agency system I am convinced that their advocacy is not due to any selfish or personal interest. They are as sincere in advocating the managing agency system, in the interests of the insurance business as a whole, as those who advocate its abolition. But as I have already said I am convinced of the strength of the case on the other side, namely, for the abolition of the managing agency system. I would therefore appeal to those who advocate the managing agency system to accept the decision of both the Chambers of the Central Legislature, as one reflecting the general opinion of this country, in a sportsmanlike manner and not to further agitate the question of the managing agency system. Anyhow, if experience shows that the abolition of the system has prejudicially affected the growth of Indian companies in general business, then they can re-agitate the matter and convince the Government of India that by the abolition of the managing agency system the development and growth of insurance business has suffered in this country. If they can make out such a case then the Government of India will I am sure not be unwilling to revive that system to help Indian insurance. I think on the whole that the abolition of the system is more conducive to the growth of insurance business in this country at present, and the onus of making out and proving the contrary lies on those who want its revival.

Sir, with regard to the provisions of the Bill dealing with licensing of agents I will say a few words. They are on the whole well conceived and satisfactory. The demand for licensing agents is a long-standing one, and it is a matter for gratification that at last the Government of India have introduced the system. I hope it will work well, though there are some snags in the provisions relating to licensing. We must wait and see how they work. At present I find a number of employees of insurance societies like clerks, who receive salaries for working as such, also canvass business and get some commission for working as insurance agents. It is now considered to be legitimate. They work in the companies as regular employees and also procure business and get commission thereon. Hereafter I realize that they must take out a license under section 37 if they are going to canvass business for the insurer. But whether they should be permitted to do so when they also receive a salary for other work from the insurance company is a matter which is not very clear from the Bill. The Honourable the Law Member might throw some light on that. It is a practical difficulty. Some of us who are connected with life insurance companies do not wish to exclude this class of person from our agents. They are very useful people. They earn salary for regular work and in addition get a commission for business procured. I personally feel there should be no prohibition on their being employed as agents. Of course I realize that there may be abuses in some cases. Agents may be given other remuneration in addition to commission and the provisions of the Bill may be nullified by placing them on the pay roll as clerks of the company. But I think those will be cases of evasion and we can detect them.

With regard to the issue of licenses the provisions of the Bill as they stand seem to be good ; but there is an attempt, I find, to require that the agents, or would-be-agents, should apply through an insurer or to obtain his counter-signature at least on their application for a license. I am strongly against any such move. I do not want agents to be made indentured labourers of any company before they get a license. They ought to get a license independently of any insurance company's intervention, and after they have been given licences they must be free to choose their employers. Otherwise if an agent has to go to an insurer for obtaining his counter-signature on an application, it is very likely in 99 cases out of 100 that the insurer will impose certain obligations upon him or will ask him to serve him for so many years or render some other kind of service to him. Therefore I think applicants should be allowed to get licenses without the intervention of an insurer. I hope a suitable form of application will be devised by the Government to enable them to test the fitness of an applicant to obtain a license. And if the insurer's intervention is not to be sought, there should be, say, two other respectable gentlemen to certify that the applicant is a fit and proper person to have a license as an insurance agent. All that is required is that some suitable standard form of application should be devised to this end.

So much about the insurance agents. Then there is the question of the chief agents, to which the Honourable the Law Member referred yesterday. I know when I refer to this matter I am up against the irrevocable decision of the Law Member and in trying to re-open this matter I am practically attempting to unsettle a settled fact. (*An Honourable Member* : "That has been done".) True, in other cases that has been done.

THE HONOURABLE THE PRESIDENT : There is nothing which is irrevocable in this House. The decision of the majority prevails.

THE HONOURABLE MR. RAMADAS PANTULU : I am glad to hear it, Sir, and I am appealing to the Honourable the Law Member to give a sympathetic consideration to our case about the chief agents. I agree with him that it is impossible to define satisfactorily a chief agent. I entirely agree with him that in our attempt to define a chief agent we are likely to exclude from its operation certain persons who ought to come in and we are likely to include persons who should not come in. Therefore I am not for attempting a definition of chief agent. However, clauses 35 and 36 speak of persons who employ agents for the business of the insurer. That general expression is used to denote people who correspond to chief agents and the scheme of this Bill so far as I understand it is this. Clause 35 (1) says that an insurer may pay commission to insurance agents, that is, agents licensed under sections 36 and 37, and also to those who employ agents for the purposes of the insurer. For facility of reference I may call the latter class of people chief agents. They are generally known by that name, whether defined or not—the person who employs agents for the business of the insurer is a chief agent in non-technical language. So an insurer can give commission to both licensed agents and chief agents. Chief agents are not required to take out any license. Then sub-clause (2) of clause 35 says that in regard to the commission to be paid to a licensed agent it shall not exceed 45 per cent. of the first year's premium or 5 per cent. of renewal premiums. There is no limitation with regard to the commission to be paid to the other class of persons, namely, the persons who engage agents for the insurer whom I call chief agents. There is no limitation on commission payable to that class of persons. Therefore the

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result is that while the limit of commission that can be paid to an insurance agent is fixed, there is nothing in the Bill about the remuneration the chief agent gets. I think this omission of any limitation on the commission to be paid to chief agents will greatly frustrate the beneficial provisions of the Bill with regard to the limitations on the commissions of agents. The provisions of the Bill can be easily evaded; even a new kind of managing agents can be brought into existence under the cloak of chief agents and various other things can be done to circumvent the provisions of the Bill. The limitation on the commissions to be paid is intended, among other objects, to make insurance not too costly and not to make it a heavy burden upon the policy-holder. The more the cost, the less the bonus and the less the profit. It is the policy-holder who ultimately pays for every service. His main protection consists in educating him that he can get as much benefit out of insurance as possible only if he goes to the insurer without the intervention of agents. When you get rid of agents and middlemen, it is then that the policy-holder gets the fullest benefit. The real protection lies in educating himself about the benefits of going direct to the insurer without the intervention of third persons. From the chaprassi right up to the managing agents, it is the policy-holder who pays for everyone employed in an insurance concern. Therefore anything that goes by way of commissions to the intermediaries will *pro tanto* diminish the profits, benefits and bonus due to the policy-holder. Therefore, I feel that even in the interests of the policy-holders, whose interests are to a great extent safeguarded by this Bill, there ought to be some limitation on the commission paid to the chief agents. I quite realise the strength of the argument of the Honourable the Law Member yesterday that the imposition of a limitation is likely to injure the interests more of the younger companies than those of the older companies. The older companies can open branch offices at great cost at various places, whereas the younger companies can only operate in a province other than its own, through a chief agent who will be remunerated more upon the basis of the business he does than upon stereotyped standards of costs of a branch office. I quite realise the strength of the argument. Nevertheless, Sir, my experience of life offices—I am connected with two life offices, both of them young—has shown that it will not really conduce to the benefit of the policy-holder or to the strength of the organisation unless there is some limitation upon the commission paid to chief agents. Though there is no statutory limit now, the commissions paid to chief agents are limited by the contracts between the insurer and the chief agents. In my experience I have come across few cases where chief agents are paid normally more than 20 per cent. overriding commission on the business secured by them, through the agents employed by them. Now, the Bill provides for a maximum of 45 per cent. to ordinary agents and yesterday the Honourable the Law Member said that if there is general support for reducing it to 40 per cent. he is prepared to do so. I for one feel that we ought to get that support, because I feel that 40 per cent. is quite handsome and ample in the case of insurance agents and I for my part am prepared to say that I will support his proposal to reduce the agency commission from 45 to 40 per cent. Supposing we give 60 or 65 per cent. to the chief agent, it will give him 20 or 25 per cent. margin. If it is 40 he will get 60 per cent. and 65 if it is 45. I think it ought to be ample for a chief agent to induce him to procure business to the insurer. And if a chief agent himself takes out a license under section 37 there is no reason why he should not also get commission on the business introduced by him directly. Therefore in addition to the commission on business done by him personally, if he takes out a license,

he may get overriding commission up to 20 per cent. or 25 per cent. upon the business done by agents employed under him. The experience of life offices has shown that efficient chief agents can be procured at 20 per cent. overriding commission and they have rendered very valuable and efficient services. I do not know whether there is any great agitation among the chief agents that they should get unlimited remuneration or that the remuneration that they now get is not adequate. They have not been before the public as the managing agents have been. So far as the chief agents are concerned they have behaved very handsomely in regard to this legislation and they have not put forward any special case; nor am I aware of any long-standing contracts with them with the insurance companies to the disadvantage of the insurers or to the policy-holders. Therefore, Sir, the provisions of sections 35 and 36 which relate to persons employing agents if retained as they are without any limitation on their remuneration will operate prejudicially to the insurance companies as well as policy-holders. I do not wish to enlarge upon this matter now, because I have given notice of a specific amendment with regard to the way in which chief agents of insurance companies should be remunerated and when I speak on that amendment I will deal with it at greater length.

Sir, another section of the Bill which has been subjected to a good deal of comment is the section dealing with investments. As the Honourable the Law Member has pointed out yesterday, a compromise has been arrived at and a number of amendments of which notice had been given in the other House were withdrawn by reason of an agreement between all the parties in the House. Nevertheless I will request the Law Member to consider whether he cannot reduce the 55 per cent. to be put into Government and approved securities to 50 per cent. I am making this request in view of the fact that there are large assets of insurance companies which really cannot be invested in any remunerative manner such as their outstanding premiums, their buildings, their furniture and other assets, and they form a fairly large proportion. In making this suggestion I am not asking him to take into consideration the cost of the buildings of the head office or branch offices. If it is reduced to 50 per cent. they will still have 50 per cent. of their assets for investment at their option and it will give sufficient protection to them. If he is not prepared to consider this suggestion, my alternative suggestion is that he might allow the cost of the investment on buildings in which the head office and branch office are located within the limit of the 55 per cent.; he may include that investment in the 55 per cent. for which the Bill now provides. I am suggesting either of these alternatives for his consideration.

In regard to investment in Government securities, I do not wish there should be any reduction at all. Under the Indian Securities Act I believe that even securities of Provincial Governments are Government securities—not only securities of the Government of India but those of Provincial Governments—and I want as much money of the insurance companies as possible to be invested in securities of Provincial Governments. I know Provincial Governments will be required to borrow larger and larger amounts for productive capital expenditure in the future and any measure which compels the insurance companies to put more and more into Government securities will help Provincial Governments to raise funds—especially now when we want long term funds for productive expenditure in the provinces. Even if the proportion of 25 per cent. is raised by the Law Member, I am willing to vote for it.

[Mr. Ramadas Pantulu.]

Sir, the special provisions of the Bill on which I would like to say a few words are those relating to provident, mutual and co-operative life insurance societies. The concessions given to them and the provisions dealing with them are very satisfactory. Provident insurance companies which have been working on the dividing plan were mostly unsound and a great menace to the public and some of them have failed and caused great loss to the poor people. Therefore provident companies are now rightly asked to function like regular insurance companies, the only limitation being that they cannot pay an annuity of more than Rs. 50 or issue a policy for more than Rs. 500. I think these safeguards and the special facilities given to provident companies must prove very useful to the public specially the poor. There is, however, Sir, one provision to which I take exception. The new clause 3A, which was added at the far end of the proceedings in the Legislative Assembly, prohibits all insurance companies except provident societies from writing on their books any policies for Rs. 500 and less; they must issue policies of sums above Rs. 500. In regard to this matter, my personal experience of co-operative insurance societies is that they have been doing excellent work and rendering very useful service to the rural population by issuing small policies. The co-operative insurance societies which work mostly in the villages and among the members of the rural credit societies have been able to write on their books business of a very useful character in the small policies. The elementary teachers employed in district boards and other employees of quasi public bodies whose means are slender and whose provident fund contributions which may be diverted to insurance premiums are very small and which will not enable them to take policies of over Rs. 500, have taken full advantage of co-operative insurance and have largely insured with the co-operative insurance societies both at Bombay and Madras. I have no first-hand knowledge of the working of the Co-operative Life Insurance Society at Calcutta, but I think it is also doing some good business of late, though in the beginning it was a little handicapped. But I know that the Bombay and Madras Societies have done exceedingly well and I think in Bombay policies of Rs. 500 and less constitute about 50 per cent. of the business and in Madras about 25 per cent. of our total business. We started our Insurance Society in Madras in 1932. We have been going on for five years and we have written Rs. 50 lakhs of paid up business on our books, about 25 of which relates to policies of Rs. 500 and less.

Sir, the provident companies are few and new to regular insurance business. So they cannot be expected to render the same efficient services to the village folk as the co-operative life insurance societies are now doing. In course of time, however, the provident companies may grow in strength. I feel, Sir, that there is at present no case for excluding co-operative societies from business of Rs. 500 and less. Therefore, I earnestly plead for the exemption of co-operative societies from the operation of the new clause 3A in the Bill.

Sir, now coming to the provisions which give protection to policy-holders by this Bill, I feel that they are on the whole satisfactory. The amendment of which notice has been given by the Honourable the Law Member, which I received last night, says it makes it obligatory on the insurance companies to give notice of all the options available to policy-holders under their policies. Many of them, on account of their ignorance of the English language and on account of inability to understand the rules and regulations of the company, are not taking advantage of the various options available to them. You can

make your policy paid up and prevent lapses and have your policy revived under certain schemes ; these are some of the options which are available. Many of them have not been able to take advantage of them because due notice is not given to them of the options which they can exercise and therefore the amendment of which notice has been given by the Law Member yesterday is a very useful amendment, inasmuch as every insurance company is under obligation to give notice of all the options which the policy-holder can exercise.

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member) : Sir, may I inquire from the Honourable Member what exactly is the amendment he wants to 3A ? I have not been able to follow it.

THE HONOURABLE MR. RAMADAS PANTULU : Sir, I have sent an amendment to exclude co-operative insurance societies from the operation of clause 3A, for you to consider.

THE HONOURABLE THE PRESIDENT : I think at this stage we may not anticipate amendments. When the amendment is put forward the Honourable Member will have an opportunity of explaining it or revising it.

THE HONOURABLE SIR NRIPENDRA SIRCAR : Very good, Sir.

THE HONOURABLE MR. RAMADAS PANTULU : My amendment is this. I want these words to be introduced : "No insurer other than a provident society to which Part III applies or co-operative life insurance societies to which Part IV applies shall pay, etc." That is the exact amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR : I have followed it.

THE HONOURABLE MR. RAMADAS PANTULU : I want to club co-operative societies along with provident societies.

While the protection given to policy-holders in many matters is adequate, I feel that the protection given in respect of one matter is not adequate. Sir, for the first time this Insurance Bill provides for the representation of policy-holders on the board of directors of the insurance company. That is a welcome departure from the previous law. Hitherto, the admission of policy-holders into the boards of management depended entirely upon the goodwill of the shareholders. The shareholders, who contribute a very small portion of the working capital of a life insurance society, can, if they are so minded, exclude policy-holders from all participation in the management of their companies. Now, the Bill says that not less than one-fourth of the board of directors shall be elected from the policy-holders. I feel, Sir, that this is inadequate to protect the interests of policy-holders. A one-fourth minority on a board of directors will hardly be able to make their voices heard or their viewpoint appreciated, especially when we know that one or two powerful shareholders can command the majority of the votes and if they hold 51 per cent. of the shares can run the whole company as they like. In these circumstances, I think the Bill ought to give greater representation to the policy-holders. Personally, Sir, I feel that it should be one-half. These policy-holders pay all the money and they ought to get at least equal representation ; but if that is not possible, then the one-fourth should be raised at least to one-third representation.

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There is one other matter in regard to this representation to which I would like to refer. Sir, the new provisions of the Bill in regard to assignment and transfer in section 33 are also a welcome contribution. There is now some uncertainty about the law and there is also a divergence between the English law and the Indian law with regard to assignments. Now the English law and the Indian law have been brought into conformity and the provisions of section 33 with regard to assignment and transfer are so far useful. But when we come to section 42 which deals with representation of the policy-holders on the Board, I felt that the position is not clear as to whether the assignees or transferees of policy-holders can also claim the right to election on the board of directors. I think they ought not to. I think assignees or transferees ought not to be made eligible for election to the board of directors. In the case of shareholders we have a right to recognise a transfer or not. In the case of prospective policy-holders too the company has the right either to reject or accept a policy, but not in the case of assignment. Once a policy is assigned, it is no longer the original policy-holder but only the assignee that can claim surrender value, paid up value, allow it to lapse, and so forth. Therefore, the original policy-holder goes out of the picture. Therefore it raises a doubt as to whether assignees and transferees have not a right to claim election to the board of directors. Therefore, I think section 42 must be made clear by another proviso that the assignee or transferee of a policy under section 33 shall not be eligible for election as a director. I mean to say only those people in whose name a policy is issued, whether transferred or not, should have a claim to representation on the board.

Sir, in conclusion I would only urge the points which are of special interest to co-operative life insurance societies. They are defined in sub-clause (b) of clause 86. They are defined as societies registered under the Co-operative Societies Act which have no share capital on which dividend or bonus is payable and of which by its constitution only and all policy-holders are members. So far as the requirement that there should be no share capital on which dividend or bonus is payable is concerned, we agree, because the essence of co-operative insurance societies is that we do not have capital on which dividend is paid. Every benefit under the policy must go to the policy-holder. Therefore, we do not want to divert our profits or bonus or dividends to any shareholder. That is right. But according to the requirements of the Co-operative Societies Act we are compelled to take as our members certain members who may not be policy-holders. They are a very limited class of persons, namely, the original members on whose application a co-operative society is registered. Now, there is an All-India Act of 1912 and three provinces, namely, Madras, Bombay and Bihar and Orissa—Burma has one but Burma is outside India now—have their own special provincial Acts. Every one of these four Acts requires that every co-operative society should be registered on the application of a prescribed number of persons. Without such application no co-operative society can be formed and these members by virtue of the statute continue to be members of the society after it is constituted. At that stage there will be no policy-holders because the business of the company will commence some time after its registration and the policy-holders will come into existence a little later. It is not always possible for the ten original members to take out policies because some of them may be of non-insurable age, some of them may be medically rejected and some of them may not have the inclination to become policy-holders. Therefore, those ten original members, on whose application the society is registered, are the members under the constitution. They are members not only under the constitution as framed by the

society but under the statutory provisions of the Co-operative Societies Acts. Therefore, I want this definition to be amended so as to include also the original members on whose application the society is registered. There is also one other respect in which the definition requires further amendment. Now, in some of the co-operative insurance societies other co-operative institutions are members. They do not participate in their profits nor do they take a dividend but they are practically their feeders. For instance, a co-operative society in the mufassil has got a number of members and it would, by a sort of moral persuasion and other forms of help, help the co-operative societies to get business among their members. They are not like agents or brokers or chief agents or whatever you may call them. In Madras, the co-operative insurance society of which I happen to be the President for the last five years has other co-operative societies as members. They help us without claiming any brokerage or commission or any other benefits. Therefore, in the case of such institutions it is desirable that you should allow them to stand. They will be admitted of course subject always to the provision that they get no dividend, no bonus and no profit. On these matters I have given specific amendments and I request the Honourable the Law Member to give his favourable and careful consideration to these amendments.

I have nothing more to say now except to congratulate once more the Honourable the Law Member for the very beautiful and healthy Bill which he has produced. We will make every attempt to strengthen it here and shall do nothing to mar its beauty or to weaken it.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, the much awaited Bill which is very essential for the conduct of insurance business has at last come to our House. We are all grateful to the Honourable the Law Member for having piloted a Bill of such great importance to the Indian public. It speaks volumes for the indefatigable energy of the Honourable the Law Member that he should have piloted two such important measures as this Bill and the Indian Companies Act in such quick succession. He will be leaving landmarks on the Statute-book of India which it is not the good fortune of many Honourable Members to do. Sir, there are points of differences between ourselves and the Honourable the Law Member on this Bill, but we cannot gainsay the fact that this is a great advance on the existing legislation. Imperfect though it may be, it does to a great extent remove most of the glaring defects of the existing Act, and to that extent it has our entire support.

But before I come to the details of the Bill, permit me to say a few words about the method adopted by the Government in piloting this measure. Perhaps people may think that I am harping on an old story and trying to flog a dead horse, but I do feel strongly that this House is neglected by the Government. The references to the Joint Select Committee have become almost non-existent. When we brought forward Resolutions to this effect in this House on two occasions, the Leader of this House, the late Mian Sir Fazl-i-Husain, gave us to understand that it was the settled policy of the Government to refer important Bills to Joint Select Committees of the two Houses, particularly measures of this nature which do not involve the Government as a party. Here the Government have no particular interest of their own. The Bill is for the good management of a business in India and as such it was eminently suitable for reference to a Joint Select Committee of the two Houses. It may be urged that this is a revising Chamber and as such it should not be associated in the initial stages.

THE HONOURABLE THE PRESIDENT : Nothing of the kind. Standing Orders give power to this House to ask for a Joint Select Committee.

THE HONOURABLE MR. HOSSAIN IMAM : We are thankful to you, Sir, for the statement, we would be going beyond the statute and the rules. The rules do not say that we are a revising Chamber and are therefore debarred from participating in Joint Select Committees of both the Houses. Look at the Mother of Parliaments. When the Government of India Act was on the anvil, it was referred to a Joint Select Committee of the two Houses. Why should there be no references of Bills to Joint Select Committees here, when it is done in England, although the House of Lords, being a hereditary body, has not the same claim to represent the public opinion as we have ?

THE HONOURABLE SIR NRIPENDRA SIRCAR : May I offer an explanation on behalf of the Government ? Government tried its level best to have a Joint Select Committee but it could not force the Assembly to agree to that.

THE HONOURABLE MR. HOSSAIN IMAM : May I remind the Honourable the Law Member that at the time when he introduced the Bill the Congress Members were absent and most of the Independents were also absent. If he will see the debates he will find that the nominated Members were in the overwhelming majority of about two to one. Is it not a fact that before the 15th February he had an overwhelming majority at his beck and call just as he has in this House ? The Assembly, before the Congress came in, was as tame a body or even worse than this House was about six years ago. The Opposition in this House at present is not a whit less representative than the other House. But it is our misfortune that many of us are so obsessed by our inferiority complex that some of us have no desire to honour themselves and keep up the dignity of this House.

THE HONOURABLE THE PRESIDENT : I hope you will not make any reflection on your colleagues.

THE HONOURABLE MR. HOSSAIN IMAM : I am making reflection on our own selves. It is our own weakness which is responsible for the attitude of the Government. If the Members of this House had the courage of their convictions and had they desired to make themselves felt, they would have made themselves felt and Government would have sung a different tune to that which it is singing now. It is not the Government which is at fault. It is primarily the fault of ourselves and we ought to be ashamed of it. I wish the House to rise to the occasion and assert itself and prove that it has got dignity and prestige and that it is not going to take this neglect lying down. But if we do not do that, it will be our own fault

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and not the fault of Government. But I may request the Honourable the Law Member that he should explore ways and means to compromise this difference between the two Houses. A suggestion unofficially made was,—and there is a great deal of sense in it,—that a House of 146 should not have the same representation as a House of 60. We admit the strength of this argument, but we request Government to find a solution and amend the rules accordingly so that the valid objection of the Congress and the other opposition parties in the Assembly may be removed. We do not want that we should come in as a matter of grace ; we wish to come in as a matter of right, and on equal terms. And "equal terms" does not imply that we must have the same representation as the other House.

Then, Sir, there is another way in which Government can make some amends for past neglect. I do not ask them to go into penance; I simply ask them to be reasonable, to forget for a moment that they have overwhelming support behind them in this House. I ask them only to be reasonable and I have great hopes of the Government being reasonable because the words which the Honourable the Law Member used in introducing this measure yesterday were hopeful. I will quote him as I took him down; his statement with regard to amendments were to this effect:

"It is rather difficult for the Government at present to agree unless an overwhelming case is made out for any change of any vital principle affecting the Bill."

We do not want any change of a vital principle affecting the Bill. What we want is merely to put in commas and semi-colons and in some places where a word has been taken out as if by the printer's devil, to put it in. I may explain that our objective is to carry out the principles, to implement the intention of the lower House and to fill up all the loopholes that may exist. It is the loopholes that make or mar a legislation, and specially so when we are concerned with commercial legislation. I think the Honourable the Law Member will agree that much greater care is required here than is required in other cases, because the commercial magnates can command the highest legal talents and with their help they can find ways and means which would not be available to ordinary people in India.

Now, Sir, coming to the Bill, I should like to trace the genesis of this measure. This Bill has a very long period of conception behind it. It was conceived in 1925 and was born on 26th January, 1937,—full 12 years. After such a long conception we naturally expected that it would be something either very much above the normal or sub-normal; that it would not be entirely normal. The Honourable the Law Member in his Statement of Objects and Reasons has given reasons as to why this measure was not proceeded with in 1925 and how the 1928 measure was introduced. I need not go into all that; I am only concerned with the immediate past. This measure was introduced in response to a demand made in this country that there was unfair competition from the foreigners. Now two interests who do not go together, i.e., big business and the young companies, joined hands in this crusade against the foreigners. The big business was afraid because some of the old established foreign companies were competing directly with it; the young companies did not compete with them. So they did not mind the expansion of the young companies as much as the advent of the foreign companies. But the young companies found that they had to increase their expense ratio on account of foreign competition. Therefore these two combined together and raised a cry for protection. As there usually happens in India, public men were duped by the interested parties and in this way some of us were deceived and we also took up the cry that there should be protection for the insurance companies. I had thought that this cry of unfair competition would be silenced after the publication of the confidential report by the Government of India in the Department of Commerce, of the Insurance Law Amendment Committee, but I find that the Leader of the Congress Party again brought forward the plea that there was unfair competition from the foreigners. Here, Sir, I should like to be informed by the Honourable the Law Member whether or not I can refer in my speech to this confidential report.

THE HONOURABLE SIB NRIPENDRA SIRCAR: Government have no objection; it is a matter for the Chair.

THE HONOURABLE THE PRESIDENT: In that case as it is marked "Confidential" the Honourable Member is not entitled to refer to it.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadian) : Sir, Government themselves do not treat it as confidential. They have no objection to its contents being divulged here.

THE HONOURABLE THE PRESIDENT: It has not been said in so many words that Government will permit its discussion.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: The Honourable the Law Member said that he has no objection to its being discussed.

THE HONOURABLE MR. HOSSAIN IMAM: Will the Honourable the Law Member kindly make the position clear ?

THE HONOURABLE SIR NRIPENDRA SIRCAR: As a matter of fact this was referred to in the other place and Government have no objection whatsoever to any Member referring to any part of that book if the Chair permits it.

THE HONOURABLE THE PRESIDENT: Then the position is perfectly clear and the Honourable Member can refer to it.

THE HONOURABLE MR. HOSSAIN IMAM: In this report you find on page 41 onwards the examination of Mr. Jones by Sir Phiroze Sethna, and you find that he has pulverised thoroughly all these arguments about unfair competition by foreigners. Reduced to its elements when boiled down, it comes to this, that the foreigners were offering higher commissions to the agents and that they were in some ways taking business from the Indian insurers for themselves. I would particularly refer to the case of the Crown Insurance which was much agitating the public. At the time when the Crown first came to India they were advertising what is technically called the extended insurance provisions : which means that if you stop payment after a certain number of years your policy continues in force for the full amount if you die within that period, but that if you die after the period is over you get a very small return for the money that you have invested. This was proved to be actuarially sound and a direct question was put to Mr. Jones, who is himself an actuary and in charge of the Oriental, to say whether it was unfair or uneconomic competition. Then, Sir, reference was made to the high commissions which the Sun Life of Canada was paying to its canvassers. There too Sir Phiroze Sethna showed thoroughly that there is no doubt that though for the second and third years the Sun Life were paying a higher commission than the ordinary Indian rates, if you took it for six years you found that they did not pay more : and another thing was that the Sun Life was paying only for seven years and they did not continue to pay renewal commissions after that. All these things are in black and white, and this bogey of unfair competition from foreigners has been thoroughly exposed. Here again I should like to enter an emphatic protest against the policy of indiscriminate protection which is advocated in India. Protection has become a thing under which every capitalist who wants to exploit India comes up and asks the Government and the patriots of India to come forward and help him. The substitution of a brown capitalist for a white one is not in the interests of the masses. Rather it is the other way round. It is much more difficult to dislodge a brown capitalist than it is to oust a white capitalist. You can boycott the white capitalist altogether, but if you do the same thing

with the Indian capitalist, you will have an array of patriots fighting for him because they are his dupes and they are made to believe in things which do not exist. I can cite instance after instance where the expansion of protection in India has been done directly at the cost of the poor agriculturists. The agriculturists are suffering because protection has been given. I do not oppose protection, but I do say, go slow, and have some discrimination, and look at all sides before you give protection. If we give protection indiscriminately it means that we are cutting our nose to spite our face—

THE HONOURABLE THE PRESIDENT : I am afraid you are mixing up two matters : the right of discriminate protection in this country and the right of foreigners to come and start industries in this country.

THE HONOURABLE MR. HOSSAIN IMAM : Foreign Insurers do not come and start companies here : they only establish branches here. If they were to come here and float a company under the Indian Companies Act, then they would come under the category which you have classed as Indian. There are at the present moment any number of cases in which this thing is happening. We have the case of the match industry which is primarily controlled by foreign capital, and yet we are protecting that industry. (*An Honourable Member :* "Sugar, textiles and steel") Not in sugar and textiles : there the predominant interest is Indian. As I say, I do not oppose protection, but I only cite examples how these things are done. My point was that to ask for protection in insurance in the first place has no legs to stand on ; and in the second place it is to the disadvantage of the general public and the policy holders. Therefore, I am not in favour of prohibiting the foreigners from coming into India. After all is said and done, the market is not controlled now-a-days so much by internal elements as by the world supply and the world demand and world prices. It is only when you reach that stage of stagnation that you are over-producing at a higher cost than the world prices, as happened in the case of sugar, that you can have any internal price which has no relationship to the world prices coupled with the fiscal impediment. The condition in India is that there has been an inordinate expansion, an uneconomic expansion of insurance business : as usually happens, as we saw lately in the case of sugar, when there is fresh ground opened, all people come in and they do not consider whether there is enough market for the production : they all crowd together like sheep and start doing the same thing. Honourable Members will be surprised to learn that up to 1926 there were only 51 life companies, while at the time this committee sat there were no less than 163 companies, which means that in the small space of eight years, the number had multiplied by three—it was more than three times what it was before. There is no doubt that seeing such internal expansion the foreign insurers also came in—

THE HONOURABLE THE PRESIDENT : How many insurance companies are in England at present, do you know ?

THE HONOURABLE SIR PHIROZE SETHNA : I could not tell you the precise number, Sir.

THE HONOURABLE MR. HOSSAIN IMAM : But I do not know that there are as many as in India. I am giving a picture of the condition existing at the time when the Honourable the Law Member thought of bringing forward this legislation. The fact of this expansion was the real reason why this

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measure was brought forward, because it was essentially a part of Government's duty to safeguard the interests of the public in the hands of trustees. The first step was to ask our old friend, Mr. Susil Sen, to prepare a report on insurance legislation. Mr. Susil Sen's report is an admirable document and he has lived up to the reputation which he made for himself in the case of the Indian Companies Act. But being a human being he had one lapse: he weakly yielded by giving to the insurance companies the same tenure of office for managing agents as is given in the case of the Indian Companies Act. That was his solitary lapse. But there the Honourable the Law Member came forward and like the brave man that he is, he did not make a fetish of his former support of the managing agents, and in a legal way distinguished between the two cases. He stated that the case of the industrial managing agent was altogether different from that of the managing agents in the insurance business, and he rightly came to the conclusion that they should not be allowed a longer tenure of office. This particular item has changed more often and more radically in the four stages of the Bill than any other measure—Mr. Sen recommended 20 years, the original Bill recommended three years without any restriction, the Select Committee recommended ten years with restrictions, and finally the Assembly made it three years with restrictions. We hope, Sir, when this Bill goes from this House it will be further improved and the Honourable the Law Member will accept the same principle which he had enunciated in the case of banking companies under the Indian Companies Act, and reduce the period to two years.

I now come to the Report. The second stage was the Report of the Committee to which I have already referred. At page 2 of that Report, the Honourable the Law Member, as the Chairman of that Committee, referred to the evidences in these terms:

"I think it will be useful to examine witnesses on two matters, firstly, on the matter of 'dumping' and 'unfair competition' by the foreign companies, and secondly, on the matters of changes in insurance law, necessary from the point of view of policy-holders".

So he had in mind the idea to examine two kinds of witnesses before the Committee, but through an oversight perhaps no witnesses appeared before that Committee to safeguard the interests of the policy-holders. Only two witnesses, Mr. Jones and Mr. Duff, were examined by that Committee. Our point is that if you have the evidence of only insurance experts,—and the personnel of the Committee also consisted mainly of insurance people,—how can you safeguard the interests of the policy-holders? Their case was lost by default, and even in the Select Committee in the other place no witness was summoned to give evidence on behalf of the policy-holders. On the one hand, there was an army of insurance people who came in and showered volumes of papers on the heads of the Members of the Assembly coupled with lobbying of a kind which had not been known or seen in recent years. The whole of Simla was full of insurance people, but nobody represented the interests of the policy-holders to the Assembly Members. Even the memoranda and other papers submitted before the Select Committee, very few, if any, represented the interests of the policy-holders; because the policy-holders had no association of their own, nor had they enough money behind them as the insurance legislation people had. The insurance legislation people could publish volumes of papers and they could do everything possible to advance their own cause, but the policy-holders, who are the main source of supply of funds to the insurance companies, had no organization of their own to represent their point

of view, and therefore, Sir, this Bill, though it has done a great deal to safeguard the interests of the policy-holders, does not go far enough in that direction.

Now, Sir, here I should like to make a confession. I have neither read the whole Bill nor am I interested in general insurance. My interest lies in life insurance, and whenever I shall refer to insurance in the course of my observations, my remarks would apply only to life insurance, with a view to safeguard the interests of the policy-holders, because, I feel that the objective of all life insurance legislation should be this and this alone. Insurers, Sir, are long term trustees who play with other people's money and who owe a great responsibility to the public, because the policy-holders have no control over the management, and people who get the control have no stake in the business itself. Take the case of banking and insurance which are more or less allied to each other. The banker is a short term trustee, and though his capital may appear to be very small compared to the deposits, yet those who are conversant with banking will understand that all that glitters is not gold, because a part of the deposit of the public held by the bank is what is called snowballing. The money is lent out by the bank itself, and then it is shown in the liabilities as deposit; first an asset is created and a liability is then made. Let us look at the two biggest examples of banking and insurance companies in India. Look at the Imperial Bank. They have got 11 crores of the shareholders' contribution against 82 of the depositors', and that includes those created assets. Look at the Oriental,—they have 16 crores against 6 lakhs, and that 6 lakhs includes bonus shares. This is the condition of insurance in India. Is it, therefore, unreasonable to ask that the insurance law should be made more strict than at present? Sir, we have got three kinds of insurance legislation,—firstly, we have the British model where we have the maximum of publicity and minimum of control. Then you have the Canadian and other North American models where you have a great deal of control and the publicity part is not so much in the forefront, and then there are other models which have made a compromise between the two and have adopted a principle in which a part of this and a part of the other is followed. If you will study the reason for this difference in the insurance legislations of the world, you will come to the conclusion that they being sovereign countries, their laws reflect the habits, sentiments and the problems of the nationals of those countries. A study of the laws of a country reveal what are the social conditions, what are the problems and what is the outlook of the people of that country. In England the public is essentially conservative, and comparing their business morality with that of others, it will be seen that the business morality of Englishmen is better than that of other people, and therefore England does not feel the necessity of having stringent insurance legislation; while the conditions in America and other countries are different. There you have a wide-awake people, in big towns engaged in commerce and industries, side by side there are also credulous people in the countryside,—and their business morality is to get rich quick and to amass as much money as possible and by all means possible. Therefore, they have passed a legislation which suits them best. We in this country have conditions very much akin to those in America. Our point is that there should be a greater amount of Government control than exists at present. *There are three methods of achieving this. First and foremost, we should reduce the expenses of the insurers; secondly, we should give adequate control to the policy-holders in the management; and, thirdly, we should give a share of the profits statutorily to the policy-holders.* These are the three cardinal principles by which I wish to judge the insurance legislation before

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us. This Bill is a very comprehensive Bill, and, as I said before, an admirable Bill, yet a little incomplete. But the important matters of vital principle, if I may copy the words of the Honourable the Law Member, are about seven or eight. Firstly, there is registration to which no one has any objection. There is total agreement that there should be registration. Secondly, there is the working capital. This is an innovation and an advance on the existing law in this respect, and this also is not objected to. So, this can also stand. The third important matter is about deposits. Here there has been a change from the existing law and there is difference of opinion even among ourselves whether the provision is too lenient or too stringent. There are two schools of thought in this matter. Some would want more concessions while others want that some of the concessions made in the Assembly should be taken away. I will deal with the matter when we are dealing with amendments. I need not waste the time of the House now in going into details. Fourthly, we come to the mass of returns and accounts, and the actuarial investigation, and as it is an existing power it does not call for much comment. We are satisfied that in connection with returns and accounts, the Honourable the Law Member has taken a step in the right direction and increased the number of returns which the insurance people will have to give to Government. The fifth step in this Bill is the appointment of a Superintendent of Insurance. That too is an essential part of the modern trend of events. There is no longer *laissez faire* in the world, and things are being controlled and protected by Government. When Government help is available to the capitalists it is only natural that there should be a desire on the part of the public that their representative in the form of the executive should exercise some control over these concerns; and as such, the appointment of a Superintendent is a welcome move. But there is some fear that Government have restricted their choice in the appointment of a Superintendent to actuaries alone. Though his full functions have not been described in the Bill, his powers are given, and we find that the powers which the Superintendent has to exercise are more in the nature of executive and administrative powers than those of an actuarial officer. It might be urged that the appointment of an Actuary as the Superintendent of Insurance would give us some savings in expense. But, that, Sir, is a wrong belief. The number of insurance companies, general as well as life, would be so many that it will be impossible for the Superintendent of Insurance to look at their office, to go through the papers and attend to so many other things. It will be essential for Government to appoint, not one, but most probably two or three actuaries or accountants. At the present moment, with the restricted returns, the Actuary of the Government of India has enough work. But, in the future, when the number of these returns will be increased, there will be too much work for one man to deal with, and we would urge Government not to fetter their own discretion. We do not bar the appointment of the Actuary; but we say, "Don't make it a statutory obligation of the Government". Government will have the liberty, even without a statutory obligation, to appoint an Actuary as the Superintendent of Insurance. May I say one word on which we want to have an assurance from Government? The present trend of the Government of India has been to import experts from England. We have some sad experience of this. We have heard at the end of the last Simla session of the methods and ways in which people are shuffled in, so much so that a man is offered five times his last salary as an inducement to come to India. If we are to do that sort of thing, we will have to pay our Governors and other people from England—people like Judges of the High Court—terrible amounts. We have a Chief Justice who was earning in his

own country, say, Rs. 6,000. We will have to pay him Rs. 30,000 a month if that principle of the Finance Member is to be adopted. I do not wish to say anything on the appointment, Sir, but like prudent men, we have to guard ourselves against such action. *We want an assurance from the Government that the Superintendent of Insurance will ordinarily be an Indian, and if for any reason they wish to appoint a European, it should be for a very short time only and not for a long period.* The Superintendent of Insurance is the man who has so many powers that we wish our own man to be there. We do not want that others should come in and serve other masters 6,000 miles away and get the pay from us.

Now, I come to the sixth matter—the investment portion—of the Bill. There is a general consensus of opinion that increase and fixation of quota for investment in trustee securities and Government securities is a step in the right direction. But we must not forget another essential fact, namely, that investment must be remunerative and that it should give a high rate of interest in order to maintain the present basis of the life insurance tables. All the tables and contracts that have been entered into so far have been entered into on the assumption that a certain return will be made from the investment of the life insurance fund. Now, if by any action of the Legislature we make it impossible for the life insurance fund to earn the same return, the result will be that though the policy-holders may suffer, they will not get that quantity of bonuses to which they were looking forward, and it will fail in one of its objects of giving the highest possible advantage to the policy-holder, which is a cardinal principle of life insurance legislation. So, we have to weigh the two things in the balance. One is the security which is offered by the Government and trustee securities and the other is the return which cannot be had unless there is some venture. In this connection I wish to support the demand which was urged by Sir Phiroze Sethna that when the foreign insurers are asked to invest in trustee securities all their assets they must get some relief for the buildings and other assets which they may possess in England. It will be a wrong policy to ask them to sell off all their buildings and invest that money in trustee securities. (*An Honourable Member*: “That is a very small amount over and above their other assets.”) Well, Sir, you do not want them to increase their assets above their liabilities. Your claim is that the foreign insurers do not keep within the geographical boundaries of British India enough resources to pay the policy-holders. That was the complaint, and in such a case if a company were to close down and go away tomorrow we would have no hold on them. (*An Honourable Member*: “No liquid assets?”) Liquid assets! You cannot make a fetish of liquid assets. The Reserve Bank has made that a fetish and they are making a return of one-third or one-fourth of what the Currency Department was making before. It can be carried too far, and that is exactly the thing which will happen if we make a fetish of liquid assets in this case and of stability of assets. Have funds in India but do not restrict the field of investment.

Now, Sir, I come to the seventh point. The Government propose to abolish the managing agents after three years. That is a first class step in the right direction and a welcome step and one for which credit is due to the Honourable the Law Member. In the other House it was surprising to find that the champions of the people were ranged on the managing agent's side. I shall deal with that in some detail when I am dealing with my amendments to this issue. It was rather a painful thing to see in the Assembly the way in which the interests of the managing agents was being advocated by the people

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who should have least done so. But I may draw the attention of the Honourable Law Member to the fact that a chain is as strong as its weakest link. If you prohibit managing agents and allow other loopholes to exist you will be really helping the unscrupulous to rob the public; and there are any number of loopholes in the present Act which allow people of vision to evade the law. I use the word "evade" because evasion always presupposes a legal way of doing things. And this form of legal offence is all the worse because you cannot go to a criminal court and get the evader punished. You have no relief. My complaint is that there are loopholes left wide open for people who want to evade this law to do so with impunity. I have not so far referred to any amendment of mine of which I have given notice. I have simply discussed the general principles of the Bill. But in this connection I should like to refer to one solitary amendment of mine in which I am indebted to others for my ideas. I want that there should be a prohibition against the members of a firm of managing agents, managing directors and managers and others, taking up jobs under different names at a remuneration of more than Rs. 2,000 a month. I am told there are many ways in which they can do this. For instance, three partners working as managing agents divide posts among themselves. One becomes the secretary, one the manager and one the managing director, and they get all the moneys between them, it may be Rs. 1,60,000, as they used to do formerly. And this can be done within the period of existence of the managing agency. They can make the appointments and then resign. So they can evade the law easily enough. And this is only one way of which I have thought. I do not know how many ways they will think out because they are experts in this kind of game of evasion.

Now, Sir, I come to the most contentious part of the Bill, that is, commission and rebates. The Honourable the Law Member in his opening speech referred to the difficulty of defining a chief agent, and he also pointed out that by allowing chief agents to exist he was really helping the younger companies, because the old established companies can easily enough start a branch office and therefore any law we pass in regard to chief agents will affect only the younger companies. Admitting that it is difficult to draft a definition, I have more trust in the Honourable the Law Member and his legal acumen than he seems to have himself. It is not beyond his powers to find a method of describing this office, if not in so many words then in some more comprehensive manner. If any hardship is likely to result in particular cases he might provide that the Superintendent of Insurance or the Government may make some concession. Otherwise there are two ways in which the younger companies would be suffering if no provision is made for limiting the commission of the chief agents. Firstly, as far as I know, the contracts of the chief agents are for a period of years. They are not renewable yearly, because chief agents want to have security of service. Otherwise after working in a place for a year and establishing an insurer, they might be given notice and they will be nowhere. So they secure themselves by obtaining long-term contracts. Now, what happens? All the efforts which the Legislature has made to reduce the commission of the field workers and thereby reduce the expenses of the insurer do not reach the insurer because the contracts are between the insurer and the chief agent. The field worker does not appear in the picture at all. In the younger companies you do not have the same rule as you have, for instance, in the Oriental. The Oriental has its own branches doing most of its business. But it is possible for the younger companies to combine and establish branches where the manager will be common and the clerks might be different for different companies. It is quite possible that they can find ways and

means of doing away with the managing agents, but the trouble is that they cannot do away with the chief agents. The chief agents are the people interested in or connected with the managing agents. So it is a general loot. Some Honourable Member asked me why so many insurance companies were established. They are established because there was a prospect of getting easy money without any difficulty. It was one of the easiest methods open to any enterprising person of earning money. If you had not too much money to invest, about Rs. 18,000 sufficed to meet the initial deposit of Rs. 25,000 face value required to start an insurance business. And then you could sit down quietly, start business and earn Rs. 2,000 to 3,000 a month. There are contracts in which the managing agents are provided with Rs. 500 for office allowance, Rs. 500 for superintending allowance and 10 per cent. on the first year's premium and $2\frac{1}{4}$ per cent. on renewal premiums. What happens? The policy-holders may go to the dogs, shareholders may rot, but the managing agents roll in wealth. That is why so many companies have been started. It is portrayed also in the fact that the business has not increased *pro rata* with the increase in the number of insurers. If you have a business of Rs. 100 and two people work there, each one gets Rs. 50. If you increase that number to ten and your business increases only to Rs. 200, everyone of them gets Rs. 20 only. That is what happens in the case of life insurance.

Now, Sir, I was saying that the chief agents are the chief weakness of this Bill, because not only they can prevent the advantages of this legislation coming down to the insurers, *but it leaves open a way by which managing agents who will be out of employment in three years' time can find good and remunerative employment, because it is open to the managing agent before he retires to appoint a chief agent for a period of 20 years.* There is nothing in the law to prevent him from doing that. If the Legislature does not make any restriction on chief agent's commission, the managing agent can provide that the chief agent will receive a greater amount of commission than hitherto. A man need not be a resident in Bengal to be the chief agent of Bengal. I know of cases in Bombay where the chief agent and the insurer are accommodated at a distance of less than half a furlong. You do not require a chief agent at such close quarters, but when you have to pay commissions, how can you pay except by appointing chief agents? There are innumerable ways in which this has been and can be done if they exercise judicious care.

Now, Sir, we are grateful to the insurance people for having given us so much material. They have given us blue books, red books, yellow books, white books and goodness only knows how many books; but we should be careful not to take as Gospel truth whatever is written there. We should try and understand that after all they are human beings, and to them their personal interests, as is the case with all of us, come first; they are not a body of philanthropists who are out for doing good to the public alone. They would do good to the public incidentally, if it benefits them first and foremost. Now, Sir, the provision that there should be no rebate to the people who want insurance is a good one and we are grateful to the Honourable the Law Member for having stated in his first speech that he will amend the Bill to make it impossible for chief agents to give rebates. That again, I would like to remind, would go to enrich the chief agent and make his position more impregnable than it is at the present moment. You are not trying to reduce expenses. You trust that the insurer will himself place restrictions on the chief agent, but, Sir, you are forgetting the whole history of the expansion of insurance business in India. The insurance business has expanded because there are a lot of people who are anxious to enrich themselves. It is not a disparaging remark. Permit me to say that some of them are very honourable people. I

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have before me the report of the Government Actuary which shows that there is at least one company which has a business of about Rs. 4 lakhs and a deficit balance of Rs. 2 lakhs in its life fund. Cases of this kind are there in abundance. You have to pass legislation not on exceptions but on the general rule and the general condition in the insurance world is anything but fair. *Barring a few exceptions among new companies most of these are mushroom companies which have no right to exist, which in no country will be allowed to exist, because their existence every day is a menace to the public*; people are tempted to take out policies in companies which have no life fund, which goes on increasing its liability without creating any assets. Would you allow it? Look at this condition and provide for eventualities. If legislation is passed to stop wrong-doers, it will not touch the people who live honourably, and therefore the stringency which I wish to impose in the insurance legislation would not hit those insurance people who are really doing good business. Good business presupposes that while it may enrich the people who do this business, it should as well benefit the general public. Bad business only benefits the business man and does nothing for those who give the money. I do not say that all are like this, but I have reason to believe that a majority, if not a vast majority, are not fit to continue in existence, and with this end in view I have given notice of some amendments, although I am not going to deal with them now.

In the end, I should like to draw the attention of the Honourable Member to a small matter, that part of the Bill which deals with provident insurance societies. There are some railway employees who are Government servants and they have got a society of their own, and if it will be possible to make an exception in their case, it might not go amiss because you would be helping a special class of people. I would draw your attention to their case, because it does not involve any big change of principle. It means only exceptions in one or two cases. Our point is that you might permit the Local Governments to exempt from certain provisions of this Bill those provident societies whose clientele consists of Government servants alone or the labouring classes alone. Because you have given provincial autonomy, it is only fit that in the case of provident societies Provincial Governments should have a right to exempt those who do not compete in the general insurance field.

THE HONOURABLE SIR NRIPENDRA SIRCAR : We have given notice of an amendment on those lines.

THE HONOURABLE MR. HOSSAIN IMAM : Thank you very much, Sir.

In conclusion I should like once again to thank the Honourable Member for his great effort, but I have to couple it with the request that he should be more considerate to this House than he has been so far.

THE HONOURABLE THE PRESIDENT : I propose to adjourn the House at this stage, but before I do so I wish to bring to the notice of Honourable Members that under Standing Order 45 they are required to send notice of amendments at least two clear days before the consideration stage of a Bill. As this is a very complicated and important Bill, I have permitted the receiving of amendments till today and I therefore ask Honourable Members, particularly as I am desirous of considering the second stage of the Bill next Friday, to please send their amendments before 6 P.M. today. This is very necessary because the office also has to make a consolidated statement of all amendments which have nearly reached 400 by this time and it will be difficult for Honourable

Members to consider these amendments when the proper time comes until they hold in their hands a consolidated statement.

The Council will now adjourn till 2-15 P.M.¹

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, it would be convenient if time is allowed till tomorrow morning till 11 A.M.

THE HONOURABLE THE PRESIDENT : Yes, till tomorrow morning, at 11 A.M.

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

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

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadian) : Mr. President, the Law Member distinguished himself by putting on the Statute-book an amended Indian Companies Act. He has further enhanced the reputation which he richly enjoys as a great commercial lawyer and a statesman who is prepared to attack vested interests where necessary by the Insurance Bill which has passed the other House and which has come to us now for consideration. We hope, Sir, that he will complete the picture by placing on the Statute-book a fresh and consolidated Banking Act also. Sir, in the arduous task of adapting insurance legislation to modern conditions he has been ably assisted by Mr. Susil Sen whom we are sorry to miss today. Mr. Susil Sen's absence has added to the labours of our respected Law Member who is not in a particularly good state of health just now. The strain on him, Sir, has been very heavy and we have no desire to add to his strain, even though I understand, Sir, we have sent in 400 amendments and one of our Members is responsible for about 164. Sir, there may be differences of opinion as regards certain detailed provisions of the Bill but there is, I venture to think, no difference of opinion as regards the main principle and the necessity of the Bill. It is common ground among us all that the present insurance law is grossly inadequate and that it needs to be tightened and strengthened and stiffened in several directions. Prior to 1912, we had no legislation exclusively applicable to insurance companies, which were until that time governed by the provisions of the Indian Companies Act. It was in 1912 that the Indian Life Assurance Companies Act was passed and it is that Act which with certain amendments which were effected in 1928 governs the law today. Sir, conditions in 1912 were very different from what they are today. Most of the business in 1912 was in the hands of foreign companies. I believe that in 1912 there were only about 14 companies incorporated in British India the majority of which were doing only the business of life insurance and that too, Sir, more or less in a small way. Between 1912 and 1918 we had an addition of four Indian insurance companies. Between 1918 and 1924 we had a further addition of five Indian life assurance companies. It is from 1926 that the number of Indian life assurance companies has considerably increased. There has indeed been, Sir, a phenomenal increase in the number of insurance companies since 1926. At the end of 1926 the number of life assurance companies—I am speaking of Indian life assurance companies—was 51. They had a combined insurance premium income of nearly Rs. 253 lakhs. In 1934 the number of Indian companies had risen to 194 and out of these 194, 144 were doing insurance business with a combined premium income of over

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Rs. 600 lakhs. Progress in classes of business other than life has, however, not been substantial. Apart, Sir, from the Indian companies which are doing business, there are a number of foreign companies, British and non-British, which are doing an enormous amount of business now in this country. There are at present over 341 companies, both Indian and foreign, operating in India. It will be seen, Sir, therefore, that the conditions under which companies were working in 1912 are materially different from those which obtain now. People are getting insurance-minded and it is not only the richer and the upper middle classes who go in for insurance now but also the lower middle classes and these middle classes have got to be protected against themselves. Our aims, Sir, should be to see that this insurance business permeates the entire structure of Indian society. We hope, Sir, to see in this country vast insurance developments. We hope, Sir, that we shall have, now that provincial popular governments are functioning in the provinces, schemes of social insurance for our working classes also. The policy-holder of today is a person who has often invested his whole savings in the form of insurance policies and he is a person who needs protection. It is right therefore, Sir, apart from any academic questions of principle, that Government should tighten its control over the business in the interests of the vast majority of policy-holders. Sir, in considering this Bill we have to look to the interests first of the policy-holder and only secondly of the shareholders. The Bill is a very comprehensive measure. It has to take into consideration the needs of a variety of interests. We have to think, as I said, of the policy-holder, we have to think of the shareholder, we have to think of Indian companies, young and old, and lastly we have also to think of the foreign companies which are doing business and in the fortunes of which many small Indian investors are interested. And we have to be fair to all these interests. The Bill, Sir, is a very comprehensive measure and the interests it seeks to reconcile are many and divergent. It is natural, therefore, that there should be some differences in regard to certain detailed provisions. But I venture to think that those of us who are not interested in big business can only approach the questions raised by this Bill from the point of view of the policy-holder or the public at large.

I need not dilate on the inadequacies of the present law. It is notoriously ineffective in checking the growth of financially weak companies, and so far as the Government are concerned, they have, under the existing law, little authority for regulating and controlling the development of insurance on lines beneficial to the community at large. If I want to float an insurance company, all that I have got to do is to deposit Government paper of the face value of Rs. 25,000, appoint so-called agents all over the country, get a staff from whom I take large amounts of deposit for the doubtful privilege of serving me, and appeal to a credulous public in the name of patriotism to take policies in my swadeshi concern. Insurance business involves in its very nature long term contracts, and unscrupulous directors, promoters and managing agents can go on doing business for a long number of years without being discovered or caught. There is no doubt, therefore, that the existing provisions as to deposits, annual audit, periodical valuation, etc., are definitely ineffective in dealing with fraudulent and speculative concerns. We must ensure that the business transacted by our insurance companies is healthy and the premiums collected applied for purposes which are proper.

Having said this, I would like to offer some observations on the different clauses of the Bill. I may say, Sir, that I do not propose to go into the question whether the Bill follows the Canadian model or the British model. The

Bill is intended for Indian conditions, and it follows, if I may use that word, the Indian model. We have discovered our own model; it does not matter whether the principles of the Bill are in accordance with British principles or Canadian principles. All we have got to see is whether the Bill, looked at from the Indian point of view, is a good Bill or not. Coming to the clauses of the Bill, I will first take clause 3. Clause 3 lays down that all insurance companies shall, before carrying on any business in British India, obtain from the Superintendent of Insurance a certificate of registration. It rightly exempts from this registration insurance business carried on by the Governments of the autonomous provinces. Sub-clause (3) of clause 3 gives power to the Superintendent of Insurance to withhold or cancel registration of a non-Indian company if Indian companies are debarred by the law or practice of the country of that non-Indian company from operating in that country. I look upon that as a welcome provision to which no exception can be taken. I see in this clause no protection for Indian companies, and I am not going to raise any question of protection here. I am not an enthusiastic protectionist myself, and, speaking for myself, I would say that it is difficult for me to choose between white and brown capitalists. But I have not been able to see the objection to the requirement that foreign companies should be required to make deposits just as Indian companies are required to make deposits. All that the Bill provides is that foreign companies shall receive the same treatment as that which is accorded by the country of those companies to us. I cannot see, therefore, any force in the objection which was raised by our respected Leader Sir Phiroze Sethna. Why should our Canadian friends resent the clause as it stands?

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhamadan): Sir, I do not object to deposits, but only in regard to investments.

THE HONOURABLE MR. P. N. SAPRU: Why should they resent the doctrine, "Do unto others as you would be done by them"?

THE HONOURABLE SIR PHIROZE SETHNA: That is exactly what the Canadian companies want us to do.

THE HONOURABLE MR. P. N. SAPRU: I believe, Sir, that in Canada an Indian company is treated differently from a Canadian company.

THE HONOURABLE SIR PHIROZE SETHNA: No, Sir, It is treated exactly in the same way as a British company.

THE HONOURABLE MR. P. N. SAPRU: British companies are treated differently from Canadian companies. If that is so, why should there not be discrimination against Canada? I do not ignore the fact that Canadian companies have done a lot of good here, but if there is discrimination in Canada against British companies, and if there is discrimination against Indian companies in Canada, why should we not also discriminate against Canadian companies? I have not been able to understand that point.

THE HONOURABLE SIR PHIROZE SETHNA: It is discrimination in favour of the British companies, not against them. If you carefully read the Canadian Act you will find it so.

THE HONOURABLE MR. P. N. SAPRU: Of course, my Honourable friend Sir Phiroze Sethna is a much greater authority on insurance than

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any of us here, but I can only approach this question from the commonsense point of view and I have not been able to appreciate those differences. We are living in a world of nationalism and totalitarianism, and, situated as we are, it is not possible for us to take our stand on ideals and sacrifice our interests. What is wrong in insisting on the fact that foreign companies should deposit securities just as other companies do? Therefore, I would say that the provisions of the Bill as they stand have my support in regard to this matter.

Clause 6 of the Bill requires certain deposits to be made by companies in respect of their various insurance activities. As the clause stands, separate deposits will have to be made by insurance companies for the various classes of their insurance business. On the question of deposits I may say that I am in general agreement with the line that the Bill has taken. The quantum of deposit required is not one to which exception can be taken. I do not think that it can be urged with any fairness that sufficient time has not been given to the existing companies to meet the requirements of the new Act. The Bill, as amended by the other House, meets the reasonable objections of the young companies by extending the period to ten years. The starting figure of Rs. 50,000 is not too high, nor is the rate of Rs. 15,000 per year unreasonable—I think they are reasonable figures.

Coming to the other parts of the Bill, I may say that I am in general agreement with the main principle of clause 26 (1). The interests of policy-holders require that a certain proportion of the reserve liability should be held in Government and approved securities. There is no difference of opinion as regards the principle of that clause. The only question that has been raised is about percentage. The question, therefore, that has got to be considered is whether this 55 per cent. cannot safely be reduced to 50 per cent. We realise that that 55 per cent. was the result of an agreement and we would not like to disturb an agreement which was arrived at when the Bill was in the other place. But according to the section as it stands 25 per cent. of the security must be held in Government paper. The question that I would like to raise is this. Can we consistently with the interests of policy-holders reduce it to 20 per cent.? The one objection to Government paper that I see is that it is not sufficiently paying. If securities are held on low interest it would not be possible for companies to declare larger bonuses for the policy-holders and so I would say that if consistently with safety we can reduce this figure from 25 to 20 per cent., we should do so. Life assurance companies have in addition to the securities that they hold such assets as interest accrued and not paid, outstanding premiums, agents' balances and then they have their furniture, fittings and head office buildings and branch office buildings. Therefore the suggestion that the requirement about Government security deposit may be reduced to 20 per cent. is worth consideration. I would not put the case higher than that. It is worth consideration.

I come to the question of the limitation of chief agents' commission. There is no provision in the Bill limiting the commission which a chief agent can get. Now, Sir, we on this side of the House were glad to hear that Sir Nripendra Sircar proposes to move an amendment prohibiting rebates. As regards chief agents the position would seem to be this. There is difficulty according to Sir Nripendra Sircar in defining the chief agent. I appreciate those difficulties. He is a very very great lawyer and if he cannot frame a satisfactory definition then surely none of us can. I would say this, that I am not prepared to ever emphasize this question of chief agents' commission. Though there is no limitation of commission for chief agents a maxi-

imum limit of commission has been laid down for canvassers and licensed agents. This will remove the incentive for paying big sums to chief agents. Today the position is this. There is competition among various companies for agents. It is for this reason that the commission of agents is high but now that a maximum rate has been fixed, this competition among agents will be eliminated. There is a maximum limit beyond which a company cannot go and therefore this competition will be eliminated. The result will be that chief agents will not have to pay the high rates which they have to pay to their canvassers and agents today. In this way, indirectly, not directly, I look upon this as being in the nature of a safeguard. In this way the Bill will have the effect of limiting the commission paid to chief agents. Therefore while desiring that some way might be found for limiting the chief agents' commission, I am not prepared to stress that point too far but there is one suggestion that I would like to make in regard to chief agents. I would suggest that the number of chief agents that an insurer may appoint should be fixed in the statute. I would suggest a maximum number of 15 for the whole of India. If such a restriction is not imposed, the statutory provision for limiting the commission payable to licenced agents might be evaded by unlimited payments to chief agents. We have 11 Governors' Provinces and a number of Indian States. Fifteen would seem to be an appropriate number—11 for Governors' Provinces and 4 for the Indian States. If the number 15 is considered too little, I would suggest 20. I would suggest also that the question of fixing the maximum number of chief agents should receive consideration from this House and I hope that the Honourable the Law Member will give this question his consideration.

Sir, I would now come to clause 35, sub-clause (2). My view in regard to this is this. A commission of 45 per cent. for the first year's premium strikes one as a rather high percentage for an ordinary life assurance agent. The maximum therefore for the first year should be 40 per cent. of the first year's premium. This, I believe, was the proposal in the Bill as originally introduced. British and foreign companies appear to be of the view that 15 per cent. should be the maximum commission payable to insurance agents doing business other than life business. I believe Sir Phiroze Sethna supported this point of view. I would therefore support the reduction of the maximum commission payable to insurance agents to the figure of 15 per cent. After all we have primarily to think of the interests of the policy-holders and not of the insurance agents and 15 per cent. would seem to be a reasonable limit for commissions payable to insurance agents.

I come now to the question of the managing agency. I believe this is a home industry and I have never been a believer in it. What is the class of managing agents that we are getting today? If a fellow cannot get employment anywhere and if he has got some influential friends, then he goes about canvassing for himself as managing agent. He says, "Will you come to my rescue and help me to start an insurance company?". He knows all the time that this insurance company is going to be a failure and that he is ill-fitted for the job of managing agent. I have some experience of this class of managing agents. They come to you and ask you to help them by becoming directors of these mushroom companies. There is no doubt that the system of managing agent has proved a failure so far as insurance business is concerned. Managing agents may be necessary in the case of the joint stock companies. Joint stock companies need finance and it was said at the time of the Companies Bill—we were not convinced by those arguments but this was the line taken by managing agents—that they had been useful in getting finance for the concerns that they were running, but life insurance business

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stands on a different footing altogether. A life insurance company is a financial institution and why should it need finance? I therefore strongly oppose this wretched managing agency system. I do not mind this interested talk, expropriation or confiscation. I am glad that the Bill has boldly attacked this managing agency system. I would have been happier if we could have taken even a stronger line in regard to these managing agents. Sir, considering all the relevant factors, I am prepared to give my strong support to the provisions of the Bill in regard to managing agency business. Then I would like to make a few observations in regard to the question of the licensing of agents. This licensing of agents is very necessary. The Superintendent ought to have some control over these agents, but I would say that the licensing fee of one rupee proposed is ridiculously low. I should have put the figure to at least Rs. 5. I think that that was the original proposal. But if Rs. 5 is considered to be too high, then I would suggest Rs. 3 per year. Then I would also like to refer to the question of the representation of policy-holders. I think clause 44 deals with the representation of the policy-holder. Well, the principle that policy-holders should be represented on the directorate has been accepted by the Bill. I am glad to support this principle, but the proportion fixed strikes me as being too low. I think the proportion should have been higher. I would have suggested at least 40 per cent. of the directors, if not 50 per cent. The policy-holders are the people who are most interested in the insurance company and their interests are in no way less than those of the shareholders. Sir, there is just one little difficulty having regard to the wording of that clause, which says :

“Where the insurer is a company incorporated under the Indian Companies Act, 1913, and carries on the business of life-insurance, not less than one-fourth of the whole number of the directors of the company shall be persons having the prescribed qualifications”.

Now what do these words “prescribed qualifications” mean? Do they mean that he must be a shareholder also? Sir, I think that this difficulty will be removed by the Honourable Sir Nripendra Sircar. Then, Sir, the question was raised about assignees and transferees of policy-holders; it was said that assignees and transferees of policy-holders should not be permitted to be directors. But I was unable to discover any valid argument in support of this proposition. Assignees and transferees have also an interest in the company. If I assign my policy to a person, then the assignee becomes interested in the policy, and the assignee and the transferee become just as much interested in the policy as the original policy-holder himself. Therefore I am not prepared to agree with the view that the clause should be modified or changed. Then I would like just to offer a few observations on the question of the Superintendent of Insurance. I think, Sir, it is a good thing that the Bill has provided for a Superintendent of Insurance. Insurance is going to play a very large part in our future economic and social life and it is right that there should be at the head of this insurance business a man of status, an administrator of experience. Well the point I want to raise is this. Is it necessary that the Superintendent of Insurance should be an actuary? After all, the work that this Superintendent will have to do is administrative, it will be of an executive character, and why is it therefore considered necessary to have a statutory provision that he must be an actuary? It will be the Government which will make their appointment. If Government can get an actuary, they will appoint an actuary, but I say that in making the appointment I hope the Government will take into consideration Indian claims. Sir, there has been much dissatisfaction with certain appointments

which have been recently made at the Centre and I hope that the Superintendent of Insurance will be a person who can command the confidence of the Indian commercial community and the Indian insurance companies. An Indian can understand the mentality of Indians better and it is therefore desirable that the first Superintendent of Insurance should be an Indian. I would therefore press for the deletion of the words "who must be an actuary". I have an amendment to that effect and I will say what I have got to say when that amendment is taken up for discussion. Then there is just one other word which I would like to say and it is this. I do not find in this Bill any provision for retaliation. We are not here for retaliation. If it were possible to retaliate against certain companies, for example, Japan and Italy—they are hateful countries for us—we should be glad, but we realize that retaliation in the more general sense is outside the scope of this Bill. What we are doing is that we are going to treat foreign insurance companies just in the way that they treat our insurance companies. Sir, the Bill is, if I may say so, an excellent Bill. No Bill can be absolutely perfect; if we want to pick out loopholes, we can pick out loopholes, but, Sir, much care has been bestowed upon this Bill and it is the result of years of labour. We are indebted to Mr. Susil Sen for his very very able and comprehensive report; both he and the Honourable Sir Nripendra Sircar have done a great service by taking up this work of insurance legislation.

With these words, Sir, I give this Bill my general and hearty support.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) :
 Sir, I welcome this Bill in its broad aspects as a measure which is primarily designed to protect the interests of the policy-holders and, incidentally, it places insurance business on a sound footing. The commercial community has for many years been urging upon the Government the necessity for bringing in legislation on this subject. The Government have, however, put it off on the plea that they were awaiting the enactment which the British Parliament might adopt as a result of the Clauson Committee's Report. No such legislation has been enacted in Great Britain, but what Parliament did was to insert certain clauses in the Government of India Act which prevent this Legislature from making any discrimination, whether legitimate or illegitimate, against British companies. Well, Sir, this difficulty probably stood in the way of the Government of India, which has been overcome by this Act, and we have now this Bill before us. We are not fond of making discrimination for the sake of discrimination. It was only when it was called for and found necessary in the national interests that a measure of some discrimination might have been adopted. We have here friends like the Honourable Mr. Sapru who would have, if any discriminatory measure had been brought in, stood up from their own point of view and would have saved this odium from the British Parliament. They would have got up and said: "Well, this is not necessary and the discrimination proposed does no good to the country". But if it merely harms other countries, he would have pleaded with greater effect in this House. These provisions only shift the odium of it to the British Parliament. Sir, the Bill is not, therefore, completely satisfactory in my view. Nonetheless, I welcome this Bill. The great industry, labour and pains which the Law Member has taken and applied in evolving this Bill have been responsible for its successful passage through the Assembly. A matter of a complicated nature of this type requires very great care and ability. His versatile ability and talents he has bestowed in full on this measure. Although it may be embarrassing to the Honourable the Law Member, I could not refrain from referring to it. I was looking

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forward to the pleasure of meeting my friend Mr. Sush Sen. I am sorry that his illness has prevented him from being present in this House. I wish him early recovery.

Sir, if I cast a bird's eye view on this Bill, I may be permitted to say that it is a fairly comprehensive Bill. It covers in the first part the insurance business such as we know it, the insurance business proper, relating to life, fire, marine, accident, and so on. Then, in some other part of the Bill it deals with provident societies and in another part, again, it deals with mutual insurance societies. In this sense it is a comprehensive Bill and it provides the machinery to regulate all classes of insurance business. So far, anyone could have carried on insurance business without sufficient resources. Although large companies too were carrying on this business, it was open to a person, even without registering himself, to transact such business. Now, it would not be open to transact insurance business unless the insurer registers himself. Then, there are other salutary provisions. First of all, an insurer is required to have a working capital of Rs. 50,000 and, secondly, he is required to deposit large amounts with the prescribed authority. In the case of life, it is Rs. 2 lakhs; in the case of fire it is Rs. 1½ lakhs; in the case of marine another lakh and a half; and in the case of general, accident and other things a similar amount. If these various companies carry on and combine more than one type of business, then the deposits which they have to make are somewhat reduced. But even then they are sufficiently substantial deposits. Whether the companies are the existing companies or whether they are new companies, whether they are British companies or they are other foreign companies, they have all got to comply with these requirements. It is a very salutary requirement; it is something which goes to secure the interests of the policy-holders. Now it will not be open for anyone without having sufficient capital to start an insurance company, with a table and a telephone, and hoodwink the credulous public. It is not possible now for somebody to approach the public and say, "There is an insurance company", and the name "company" carries so much weight with some people that he will say, "Insure yourself and you will get the advantages". That position is changed by this Bill. Then, again, the companies are required to invest a portion of their funds in Government securities. As the Bill stands, 55 per cent. of it is required to be invested in gilt-edged securities, 25 per cent. in Government securities and 30 per cent. in approved securities, that is, securities issued by the Corporations of Bombay, Madras and Calcutta and the Port Trust authorities. These provisions are healthy. The insurers have 45 per cent. left to them which they can invest in other assets. The Bill does not leave out the foreign companies. If it had left out foreign companies, it would have been open to them not to invest their assets in this country and we would not have had those assets in this country. Therefore, very rightly a provision has been inserted that companies other than Indian companies, and British companies which are to be deemed to be Indian companies, must invest all their life fund equal to their liability in respect of Indian business in Indian securities. On this question my Honourable friend Sir Phiroze Sethna said that this was rather hard upon Canadian companies, but the Canadian law itself requires that so far as non-Canadian companies are concerned, they shall keep their assets, that is, the life fund, in Canada itself.

THE HONOURABLE SIR PHIROZE SETHNA : Absolutely incorrect.

THE HONOURABLE MR. G. S. MOTILAL : This is what I gather from the Canadian law and you cannot say it is incorrect unless you show me the section to the contrary. Here is section 85 of the Canadian Act which says :

“ Every company shall at all times invest in Canada and under its own control assets of a value at least equal to the amount of its total liabilities to the policy-holders in Canada and of such assets an amount at least equal to two-thirds of its said total liabilities in Canada shall consist of investments in or loans upon the Canadian securities ”.

The Honourable the Law Member will be able to deal with this question in greater detail and I am sure he will be able to convince Sir Phiroze Sethna what exactly the position is in this matter.

Then you have the provisions for the Superintendent of Insurance. He
 3-5 P.M. would exercise control over the accounts, scan them, and examine them, and if they are not, in his view, correct, he is required to return them and ask the companies to correct them. He is authorised to call upon the companies to produce their books of accounts, make statements, and so on. He is given a certain amount of control over their business in so far as it relates to seeing that the accounts are what they should be. Of course he is subjected to court's order. If a court is satisfied that what he requires is not reasonable, then the court can over-rule his view.

Sir, we are all proud of our Bengal tiger, whether he roams in the forest or he roars on the floor of the Legislature. But, Sir, when he pounces upon what he calls big Bombay business, it was but natural that the two gallant Knights took up the cudgels on behalf of the interests which they thought they were there to represent in that House—at least that was their view—and they crossed swords with the Bengal tiger—

THE HONOURABLE SIR NRIPENDRA SIRCAR : A tiger has no sword.

THE HONOURABLE MR. G. S. MOTILAL : The claws, Sir, of the tiger are as good as a sword ! The view which they put forward was this. I know some Members in the House who have spoken before me hold a contrary view. The representatives of business were entitled to put forward the view, “ Do not have in future managing agents if you like ; but where in some cases the business was built up by the managing agents, deal reasonably with them ”. It has been suggested that all that the managing agents had to do was to have an office and do nothing more. Sir, I am not prepared to accept that view. I know from my own experience that some of these managing agents had to use their influence, and work hard, as if it was their own personal concern. They do not always, because they are entitled under their agreements, come forward and say, “ We should get every pie of our commission ”. It is a view, which some people take, that if those companies had been left to managers drawing salaries, then they would have looked at the watch and said, “ It is 5 P.M. ; I will go home ”, and then, the next morning, they will come to office only at 10-30 A.M., and the business which has been built by them would not have been as prosperous as the managing agents have made it. In their case there was a contractual obligation which was attacked on the ground that it was an unconscionable contract. My answer is that if it was an unconscionable contract, it did not require any new provision of law. That contract could be dealt with under the law which deals with unconscionable contracts, and it would have ended.

THE HONOURABLE SIR DAVID DEVADOSS : How ? You must go to court.

THE HONOURABLE MR. G. S. MOTILAL : Exactly, by the court.

THE HONOURABLE SIR DAVID DRVADOSS : Who is to bell the cat ?

THE HONOURABLE MR. G. S. MOTILAL : Legislation was not lacking to deal with unconscionable contracts. There may be other unconscionable contracts and there is the law to deal with them. This is a complete answer to the argument that it is an unconscionable contract. Any way, I am not advocating that these managing agencies should be allowed in the insurance business in the future or that when new companies are started, they must be permitted to have managing agents. No doubt, some of the managing agents have been receiving excessive commissions, and that is probably the reason that has brought them in the public eye. But we should also remember in this connection that it is not only the managing agents who have been receiving what some of us consider excessive commissions. Even the managers in this business receive large salaries. Sir Phiroze Sethna told us only yesterday that in other countries and even in this country they receive salaries as large as the Members of the Government do in this country.

THE HONOURABLE SIR PHIROZE SETHNA : I referred to the incomes of some insurance agents.

THE HONOURABLE MR. G. S. MOTILAL : The incomes of insurance agents who are not managers. But I know you will not dispute that managers of insurance companies do receive in some cases as large salaries as the Government Members in this country do.

THE HONOURABLE SIR PHIROZE SETHNA : More in some cases.

THE HONOURABLE MR. G. S. MOTILAL : Therefore, what the managing agents were receiving was not something which was very atrocious. From the standard of our income in this country we are inclined to judge sometimes that they are receiving very large payments.

THE HONOURABLE SIR PHIROZE SETHNA : These men are not technical men. They know next to nothing of the insurance business. That is the point.

THE HONOURABLE MR. G. S. MOTILAL : If they do not know the insurance business, they would not have been entrusted with the work. As regards qualifications, some people will say that if a man passes a particular examination, then he has the qualification. (*An Honourable Member :* "Experience".) The people who are hard-headed business men, who are on the boards of these companies would not have tolerated them. The amount of business which they have secured, the way in which they have built up the insurance business is a convincing proof that though they had not technical ability and had not passed through a particular examination, they had sufficient knowledge — call it working knowledge if you like. I know many business men who, if you ask them to come and argue and reason with you, they will feel very reluctant to do it, but when they put their head into business, they are a very great success. Without possessing business acumen they could never have done what they have achieved. I do not say that every managing agent has done equally well. In every occupation you find men who are trying to do the best they can — trying to push themselves into that business to the best of their ability. Some fail, some succeed. But

that does not mean that the system by itself has been so ~~vicious~~ ~~altogether~~ that you should not have any sympathy with it. In a way, Sir, because these big Bombay business men have been here when the insurance law was being discussed, which is of a very complicated nature and which was going to affect them considerably, to give such assistance as they could to the Legislature and to the Government, they deserved some appreciation. I admit that they were putting forward their own point of view, and it was but natural and legitimate. But did they press entirely their own view and ignore entirely other views and say their interests alone should be considered, regardless of the interests of the policy-holder? In dealing with a matter of this complexity various conflicting interests must be considered. Then if it is a legitimate interest of his that he does put forward, it is the duty of every Member of this House to give sympathetic consideration to his case. But we have been told by some Members on this side that no policy-holders were here and that their interests have been ignored. I do not think this charge can be sustained, for no less a person than the Law Member himself has been very assiduously and very vigorously looking after the interests of the policy-holder; and similarly the Leader of the Opposition and many other Honourable Members kept the interests of the policy-holders constantly before their minds. Composed as the Assembly is of persons of socialistic, communistic and other persuasions, some of them would not have the capitalist type of business. They would have liked it to be taken up by Government. These people also had a hand and a very large hand in shaping this Bill. So the interests of the policy-holder have not been in any way sacrificed because of their absence in Simla or Delhi as compared with the way in which the insurers represented their case.

Sir, now I would advert to some of the provisions of the Bill. Among the approved securities are included the Government securities and of those Corporations which are mentioned in the Bill. The insurers are at present precluded from investing their funds required by the Bill to be invested in the approved securities in any of the Indian States loans. There are some Indian States whose finances are very sound, as sound as of the British Government in India. If I may refer to Hyderabad State, I may mention that at a time when we were borrowing at 8 or 9 per cent. interest the Hyderabad Government was borrowing at 5 per cent. There are other States, and I can say with confidence that Mysore is another State whose finances are in a sound condition and are likely to continue in a sound condition. Cochin and Travancore may also be considered as such States, and I should request the Honourable the Law Member to consider their case. My reason for it is this. If you do not permit companies to invest in these State Government loans, these States might not allow Indian companies incorporated in British India to transact insurance business in their States. But if the companies are allowed to invest in the State securities the ground for objection on the part of the States will be met. Power may be given under the Bill to enable the Government of India to declare the States the securities of which may be purchased by these insurers!

Among the definitions, I find, Sir, that for the definition of "manager" and "officer" we are referred to the Indian Companies Act, whereas in the next clause immediately following it, "managing agent" is defined as is defined in the Indian Companies Act. It would be an improvement if the definition of "manager" and "officer" given in the Indian Companies Act is likewise furnished here. My reason for making this suggestion is that when I come to the *Explanation* given after the definition of "managing agent",

[Mr. G. S. Motilal.]

I find the *Explanation* given in the Indian Companies Act is imported into this Bill with a slight modification, and it reads thus :

“ If a person occupying the position of managing agent calls himself ‘ manager ’ or ‘ managing director ’, he shall nevertheless be regarded as managing agent for the purposes of section 27 of this Act ”.

I am sure the Law Member must be more aware than I am that this does not prevent the managing agent from adopting any other name and act in that capacity. He may not call himself a “ manager ” or “ managing director ” ; he may call himself the “ secretary ”, and this I say because we do not have here the additional expression, “ or by any other name ”. I suppose this omission is not unintentional and it is realized that it is open to those who control a concern to appoint a managing agent as “ secretary ” or give him any other designation except that of “ manager ” or “ managing director ”.

Sir, there is another point which I must stress at this stage and that is about the chief agent. We nowhere find a chief agent defined in this Bill and we have been told that this august gentleman defies definition. I am sorry I am unable to share this view.

THE HONOURABLE THE PRESIDENT : Why don't you define it yourself ?

THE HONOURABLE MR. G. S. MOTILAL : I have, Sir, attempted in my own way to define it. I have put in an amendment, but I shall not say that this is the last word. I am still not prepared to believe that it is beyond the drafting capacity of the law officers of this Government, and much less of the Law Member to define the chief agent. If he is to call the agreements of the various insurance companies who have got chief agents and find out what is it that they really do, and why are they called chief agents, it will really help him. This is one method to get to know what the chief agent is. If we analyse what the functions of a chief agent are and what duties are assigned to him, it may be that the definition may not be completely satisfactory as in many cases the definitions are not, yet it will be possible to arrive at a formula. And why do I say that a definition is necessary ? If there is no definition it will be open to an insurer to defeat the object of the legislation itself. At present in section 35 it is said that “ no insurer or any person ” —I take it it means any other person—who employs a licensed agent will pay any commission to a licensed agent or to any person who employs a licensed agent. Who is this mysterious person ? Presumably it is the chief agent. If it is a chief agent, then it is but right that we specify him in clear terms ; then it will not be possible, as it is possible today, to evade this provision. At present the licensed agent gets, say, 30 per cent. Some payment might be made to a chief agent but at present there is no limit in the Bill to this payment and I am very glad that the Honourable the Law Member said that he would provide for limiting the commission to be paid to a chief agent. Sir, the point I want to make is —

THE HONOURABLE SIB PHIROZE SETHNA : He did not say that. He said “ No ” on the contrary.

THE HONOURABLE MR. G. S. MOTILAL : I misunderstood him then. I want to say a word here as to what I know of some of the chief agents. A chief agent is sometimes a person who has two or three concerns under his

control and all that he does is to effect insurance and place the orders with his insurance company ; he has, in any event, to insure the assets of the concerns under his control whether he places the insurance with his company or some other company, and for this he gets some commission by being called a chief agent. This is one class of chief agents. If this is to continue the object of the Bill will be defeated. Persons who have got large concerns under their influence and are in a position to place large insurance business may get themselves appointed chief agents and get a handsome commission. So it is necessary that there should be a definition of a chief agent. Then, Sir, I come to the licensed agent. In the case of life business the commission which he gets on the first year's premium is now fixed at 45 per cent. Those who have some experience in life insurance have said that it should be reduced, and the reduction that is suggested is 5 per cent. I personally think that it would be better to reduce it because 40 per cent. would be the proper limit, 45 per cent. is rather a bit more. There is another line of business and that is fire in which I can speak with some personal knowledge. At present as the Bill stands the licensed agent who really is a broker doing canvassing business is allowed a maximum of 30 per cent. commission. This maximum of 30 per cent. will in actual working be the rule. It will be the maximum and the minimum at the same time because if one company is giving 30 per cent. another company which wants business will necessarily have to give the licensed agent the same amount. Therefore in practice it will not go below 30 per cent. In many cases as it goes at present, I do not think any broker or insurance agent gets anything like 30 per cent. He has to part with a large share of the commission. The work he has to do is really very little ; once in a year when the insurance policy expires he comes and reminds you, " Sir, the insurance policy will expire next week. Has it got to be renewed ? I have told your head clerk or your manager and if there are any modifications to be made they may be considered ". But more than that he hardly has to do anything except perhaps that on the New Year's Day he comes and wishes you a very prosperous new year. Take the case of a concern placing business through a licensed agent, the premium of which comes to Rs. 30,000 a year, then he gets at 30 per cent. Rs. 9,000 as he is entitled under the Bill to get it. The insuring person will not claim anything from him. He will say, " Yes, I am precluded now by law to take anything from you, and I shall not take it ". If he manages to get five or six such clients he would be making as much as two-thirds of the Law Member's salary, without doing much work. I do not say that he will necessarily get half a dozen clients of this character, but even if he gets one client of that character, it is only the person who is honest who will be the loser. There may be varying conditions I agree. In some places he has to do very little. He has only to speak to you that the insurance is about to expire. But in other cases, in the case of small business, he has to take a little more trouble. Well then, a sliding scale may be provided, or he should be allowed openly to give a rebate, because he gets so much and he should be free to give a rebate out of what he gets rather than that he should clandestinely pass a rebate when prevented by the law. There are two ways of looking at the problem. Conditions in different places are different ; in Bombay the conditions are different from the mufassil ; in the mufassil he has got to do a great deal more, where this large business is very rare. Sir, I was told when I was discussing this question with some Members of this House that in many cases in the mufassil the business consists of policies covering risk of two to four thousand rupees, and I was asked whether I expected the insurance agent there to get only five per cent. I said : No, certainly not. That would not be reasonable. But we have to remember that most of the fire business is large scale business.

[Mr. G. S. Mettala.]

It would be equally unreasonable in such cases that the law should not prevent the licensed agent from getting much more than he deserves. Therefore, there are two ways, as I said: Either allow him to openly give a rebate or reduce the commission. Unfortunately, the practice of some of the western countries is to fix a particular price or rate in the catalogue and then to give a rebate or commission or deduction, and this practice has come to stay. The proper remedy for this evil would be to let the licensed agent openly give such rebate within fixed limits. He is not to get from the insurer more than 30 per cent. out of which he should be allowed to give such portion as he thinks it reasonable to give to the policy-holder. That will serve the purpose so far as the soundness of the insurance companies is concerned. The object of this provision is that it should not be open to the insurance companies to indulge in ruinous competition. This object is achieved by fixing the maximum commission: An insurance company cannot give any rebata to any person who insures. If he wants some rebate, he will be told that a law has been passed in the year 1937 which prevents him from receiving a rebate.

Sir, there is one point more which I would like to stress upon and that is with regard to the Superintendent of Insurance. The duties which he is to perform are not necessarily those of an actuary and we know that there are very few actuaries in this country. Therefore, unless it is absolutely essential that he must be an actuary—and I do not think it is absolutely necessary, we know all that he will do is subjected to revision by the court concerned—he has to call for certain statements, certain information from the insurers and direct them to do certain things and in all these matters the courts are, under the Bill, empowered to over-rule his unreasonable orders. If the Superintendent's orders, in the opinion of an insurer, are not reasonable, his remedy is to apply to a court; and do you expect that the court should also be an actuary? Similarly it is not necessary that this officer should be an actuary. He should be a man having some knowledge of law, and of accounts, and above all possessed of sound common sense. There may be a person who is an actuary but he may not possess all these qualities. So, we should not make a fetish of having an actuary having regard to all the circumstances in which we are situated.

Sir, I support the Bill subject to the amendments which I shall move at the proper time.

THE HONOURABLE MR. CHIDAMBARAM CHETTIYAR (Madras: Non-Muhammadan): Sir, I welcome this Bill. For a long time the need has been felt for a comprehensive legislative measure for regulating insurance business in this country, and I sincerely hope that the provisions of this Bill, when they become law, will help to conduct insurance business on sound and healthy lines.

Great concern has been shown for the protection of the interests of policy-holders and that is as it should be. A Superintendent of Insurance will be appointed to exercise some powers and perform some duties and he is expected to keep a close watch on the working and activities of insurance companies, and to interfere in different ways when he considers things are going wrong. Another provision in the Bill requires insurance companies to make substantial deposits and have a reasonable working capital before they commence insurance business. The provisions relating to assignment, nomination and payment into Court will greatly aid both companies and policy-holders in the matter of settlement of claims. Life policy-holders are also to enjoy

the privilege of electing their own representatives to serve on the board of directors and thus secure a real voice in the management of the company. As regards this privilege, I may say, the present Bill merely recognizes what is already observed in practice by some life assurance companies. I can speak with some knowledge of one life assurance company where, by the articles of association of the company, policy-holders are entitled periodically to elect from among themselves two representatives to serve as directors and take a live interest in the conduct of business and the management of the company's affairs.

Again, there is another provision in the Bill which makes it impossible for an insurer to question the validity of a life policy after a period of two years, except on the ground of fraud. May I be permitted to remark that in this respect also, a rule has been strictly observed by some life assurance offices whereby no life policy after being in force for two or three years can be repudiated on account of any mis-statement in the proposal or for any reason other than active fraud? The period of two years fixed in clause 39 may perhaps be found too short by insurance companies for making necessary enquiries and acquainting themselves with correct particulars.

I have referred only to some of the provisions intended to safeguard the interests of policy-holders. Are these provisions not sufficient to protect the policy-holders? Is it necessary also to interfere with the investment of life insurance funds as mentioned in clause 26? That clause requires that 55 per cent. of the life assurance funds should be compulsorily invested in the manner indicated in that section. Ordinarily popular life insurance companies do invest a good portion of their assets in Government and other approved securities. Nevertheless, occasions may often arise, when for securing a reasonable yield on the investments it becomes desirable or even necessary to think of other forms of investment which are however not less safe. It has to be remembered that the rate of interest earned on investments plays a large part in the management of life insurance business. Premium rates are constructed on the basis of earning a certain rate of interest on the reserves maintained for the fulfilment of policy contract. If the rate of interest actually earned is below the assumed rate, the business cannot be conducted without raising premium rates. Apart from the question of bonuses which are paid to policy-holders out of profits, if any, the rate of interest is of vital importance to an insurer. Everyone knows that the present yield on the so-called gilt-edged securities works up to less than 3 per cent. Then another feature about these securities is that when the market rate of interest shows a tendency to rise, the market value of these securities goes down. Prices are subject to great fluctuations. So, by having to keep a large portion of the assets constantly invested in this class of securities the insurer has to suffer either by way of interest earned or by reason of the reduced capital value of investments. As one closely connected with insurance business, I can tell you, Sir, from my own experience that not long ago, life assurance companies suffered considerably by reason of depreciation in the value of Government securities and almost every insurer was put to the necessity of creating large reserves to meet losses on account of depreciation. The pendulum has now swung in the other direction and we today find that the interest yielded by gilt-edged securities is the lowest on record. When such vagaries are experienced in the matter of this class of securities what is the justification in requiring a very large proportion of an insurance company's assets be invested in the purchase of these securities?

[Mr. Chidambaram Chettiyar.]

Again, in the definition of approved securities we see that only certain kinds of securities are included. It is well known that the securities of some of the Indian States, such as Mysore, Travancore, and Cochin, offer an excellent field for investment and these securities can in no way be said to be inferior to the debentures or securities issued by municipal corporations or port trusts. Burma has been separated from India—we may soon find the Burma Government floating a loan. Is it wrong for insurance companies to think of investing a part of their funds in such a loan? Purchase of securities of different Governments has importance not only with regard to the rate of interest but also for the development of business in the territories of those Governments. Again, at times one finds it advantageous, nay advisable, on account of disturbed conditions in the securities market, to invest money in banks. It cannot be suggested that there are not banks in India where insurance funds cannot be safely invested.

It seems to me that the provisions regarding investment of funds are unduly narrow and require to be amended. There is one point which is bound to affect the policy-holders on account of the low yield due to the gilt-edged securities, that is, the bonuses would certainly be affected, I mean, would be much lower than what at present is offered even by the first class companies; and this lowering of the bonuses would, in my opinion, affect the Indian companies materially. This is a factor which we could not ignore.

It is unnecessary to refer to other provisions in the Bill. Many of them have been framed with the object of exercising a large measure of control on the conduct of insurance business and to that extent, I have no doubt that the Bill will serve the purpose well.

It is however not less important that the Bill, if it should be a really beneficial measure, should positively help to develop and not retard the growth of insurance business in India. Looking at the provisions of the Bill from this point of view, one can only wait and see what the results will be.

Sir, I support the motion for the consideration of the Bill.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal: Non-Muhammadan): Sir, I rise to support the Motion. I do not think one can say much against the Bill as passed by the Legislative Assembly. As a matter of fact we are all aware that in the Select Committee as well as during the passage of the Bill in the other House the Honourable the Law Member tried to accommodate every shade of opinion as much as he could; and I must say the shades were of various varieties, having regard to the various interests involved and as evident from the various representations and flood of literature printed in various shades received by the Honourable Members. I think, Sir, the Honourable the Law Member deserves congratulations from every section of the House. Very naturally. Sir, I feel proud that the ex-leader of my Bar is responsible for the Bill which is of a very complex and comprehensive nature and which must be recognized as one of the best pieces of legislation in this country. I hope the Honourable the Law Member and this House will stoutly oppose any substantial alteration or modification of the Bill as passed by the Legislative Assembly. Sir, I think I heard the Honourable the Law Member saying that he wants to move an amendment to the effect that the commission to agents other than life insurance agents should be reduced from 30 to 15 per cent. I would request the Law Member if he could see his way that by putting in another clause in the Bill this 15 per cent. so saved goes to the benefit of the policy-holders and not to the insurer companies.

For, after all, this is a Bill primarily for the benefit of the policy-holders. I would also request the Law Member to consider whether it is not possible to put in a clause that no life insurance agent licensed under section 37 should be paid less than 30 per cent. on the first year's premium.

Sir, I am sorry my friend Mr. Susil Sen is ill and the Law Member in his not very good health will not have his able assistance which he had in the other House. Sir, I support the Motion.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA (Bihar : Non-Muhammadan) : Mr. President, this Bill has received so far the support of every Member who has spoken before me, and it is more with a desire to join in the chorus of praise it has received than to offer any serious criticism at this late hour of the day that I rise to speak. Few measures have been introduced during recent years by Government which have been so widely hailed as the Insurance Bill. But, the general welcome it has received has however been excelled only by the intensive and voluminous criticism of its details. This is primarily due to the fact that a measure of this kind affects a large number of interests and a very large section of the public in general. There is no denying the fact that a Bill to consolidate and amend the law relating to the business of insurance had long been overdue. The situation since the passing of the Act of 1912 has vitally changed. Insurance business in general has increased very considerably owing to the happy growth of the insurance habit among the people. The most noteworthy increase has been in the sphere of live insurance. Comparing the figures of 1914 with those of 1933, we find that the number of insurance companies has gone up from 46 to 194, their capital from Rs. 35,70,000 to Rs. 2,45,59,000 and their premium income from Rs. 1,17,37,000 to Rs. 5,76,93,000. It is also satisfactory to note that this steady increase has been maintained even in later years ; and since 1934 as many as 28 new companies have sprung up. The business of insurance in other spheres, namely, fire, marine, etc., has also shown an increase. It is apparent therefore, that in view of this expansion and also the experience gained during the last 25 years, the provisions in the statute required a thorough overhauling. The growth of a large number of provident insurance companies and the passing of the Workmen's Compensation Act have also given rise to a considerable amount of insurance in the nature of accidents. Besides these happy features, there is also one alarming fact which necessitates a Bill of this kind. Whereas during recent years a very large number of insurance companies have grown up all over the country, the number of failures has also been considerable. It has to be remembered that insurance societies serve the needs mostly of the people of moderate means and failures must affect a very large number of these poor investors. I am not a lover of young and unsound companies who play with the moneys of others. Our aim in the interests of the policy-holder, I believe, should be to prevent the growth of mushroom companies, to enforce the working of existing companies on sound lines by ensuring proper application of funds and provision for protection of assets. I have little hesitation in saying that to secure these ends the present Bill makes an admirable effort. It strikes the golden mean between the principles of minimum interference and the maximum publicity, and the principle of direct control by Government. The percentages and amounts fixed in the Bill in regard to profits and investments in Government and in Government guaranteed securities and remuneration or commission payable to agents and so on, have produced endless differences of opinion. I think there does not seem to be much good ground for interfering with the percentages as laid down in the Bill. If the Bill has erred, it has erred only on the side of caution and deserves a fair trial. It has been suggested

[Rai Bahadur Sri Narain Mahtha.]

that the invested assets in Government securities and in securities approved by Government need not be 55 per cent., and that a total of 50 per cent. only should do. This was suggested by three Members today. May I ask them, why not 49 per cent. instead of 50 or 54 or 56, in place of 55 per cent. should do? In my opinion changes of this kind do no good to the Bill or to the parties concerned. It will be the soundness of the insurer that will in the long run help him to get more business and give a feeling of security to the insured. I need not say anything about the abolition of managing agents, a subject on which much time of the House has been taken up today but, whose disappearance, let me say, is generally, if not universally, welcomed. I would also like to tell the House that the powers given to the Superintendent of Insurance must not be grudged if the Bill is to achieve really satisfactory results. It must be remembered that insurance companies, like banking companies, have one very important common feature, namely, that those in charge of the management deal with moneys contributed mainly by those who are not the shareholders of the company. It becomes necessary therefore that substantial deposits should be insisted on and a substantial working capital collected before a company is allowed to be registered, and that after its registration its working should remain under the constant vigilance of the State. The deposits as suggested in the Bill do not to my mind, by reason of the largeness of the amount, seem to be such as to hit even small companies working with a small capital, provided they are working on sound lines. I admit that the size of a company is not necessarily a correct index of its financial soundness, and the effect of making a provision for a large initial deposit may injure or disable a small but sound concern, which may find it difficult to make the required deposit. But, I do not feel that the amounts and percentages fixed by this Bill are such as will tend to hit prejudicially even moderate sized companies if their business is conducted on sound lines. I would not at this stage go into the question of agents and the remuneration they will be allowed to earn. I feel for the hard lot of the field workers who it must not be forgotten have played an important part in the development of insurance business in this country. I shall, if necessary, take up their case when amendments are being discussed. Lastly, Sir, I would like to mention that I attach great importance to the individuality of the Superintendent of Insurance in whose hands the steering wheel of the whole machinery will rest. I join issue with the Honourable Mr. Hossain Imam in asking for an assurance from the Honourable the Law Member that the post will be held by an Indian and that the qualification of being an actuary will not be unduly insisted on.

Sir, I support the Motion for consideration of the Bill.

The Council then adjourned till Eleven of the Clock on Wednesday, the 17th November, 1937.