

Tuesday, 23rd November, 1937

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1937

(13th September to 25th November, 1937)

SECOND SESSION
OF THE
FOURTH COUNCIL OF STATE, 1937



PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.
1938

CONTENTS.

	PAGES.
Monday, 13th September, 1937—	
Address by His Excellency the Viceroy to the Members of the Council of State and the Legislative Assembly	1—7
Tuesday, 14th September, 1937—	
Members Sworn	9
Questions and Answers	9—35
Information promised in reply to questions laid on the table	35—42
Agreements between the Reserve Bank of India and certain Local Governments laid on the table	42—73
Message from His Excellency the Governor General	74
Committee on Petitions	74
Death of Mr. Bijay Kumar Basu and Mr. Jatindra Chandra Banerjee	74—76
Governor General's Assent to Bills	76—77
Bills passed by the Legislative Assembly laid on the table	77
Standing Committee on Emigration	77
Congratulatory to recipients of Honours	77—79
Resolution <i>re</i> Report of the Indian Railways Enquiry Committee—Moved	79—80
Wednesday, 15th September, 1937—	
Member Sworn	81
Questions and Answers	81—121
Resolution <i>re</i> Enquiry into the working of the E. I. R. Press—Withdrawn	121—20
Resolution <i>re</i> Political exiles—Negatived	126—51
Resolution <i>re</i> Recruitment to the Public Services by examinations to be held in India only—Negatived	151—63
Resolution <i>re</i> Local Advisory Committees of the B. N. R.—Withdrawn	163—66
Resolution <i>re</i> Protection of Indian interests in Fiji, British Guiana and Trinidad—Moved	166
Monday, 20th September, 1937—	
Member Sworn	167
Questions and Answers	167—211
Bill passed by the Legislative Assembly laid on the table	211
Standing Committee on Emigration	212
Resolution <i>re</i> Protection of Indian interests in Fiji, British Guiana and Trinidad	212—25
Indian Succession Act (Amendment) Bill—Motion to introduce and circulate, adopted	225—27

	PAGES.
Monday, 20th September, 1937—<i>contd.</i>	
Resolution <i>re</i> Pay of the I.C.S.—Negatived	227—55
Shebaity Bill—Introduced	255
Resolution <i>re</i> Nomination of members of the U.T.C. to the Indian Military Academy, Dehra Dun—Moved	255
Wednesday, 22nd September, 1937—	
Member Sworn	257
Questions and Answers	257—80
Information promised in reply to questions laid on the table	280
Agreement between the Reserve Bank of India and the Gov- ernment of the North-West Frontier Province laid on the table	281—84
Library Committee of the Indian Legislature	285
Resolution <i>re</i> Nomination of members of the U.T.C. to the Indian Military Academy, Dehra Dun—Negatived	285—300
Cutchi Memon Bill—Introduced	301—02
Resolution <i>re</i> Cadet Corps in schools, etc.—Negatived	302—13
Resolution <i>re</i> Taxes on excessive profits of protected industries— Withdrawn	313—21
Control of Coastal Traffic of India Bill— <i>To be continued</i>	322—25
Thursday, 23rd September, 1937—	
Member Sworn	325
Motion for Adjournment <i>re</i> Appointment of a non-Indian as Economic Adviser to the Government of India—Disallowed	325—27
Resolution <i>re</i> Report of the Indian Railways Enquiry Committee— Adopted	327—83
Statement of Business	383
Tuesday, 28th September, 1937—	
Member Sworn	385
Statement <i>re</i> Supplementary Questions	385—89
Questions and Answers	389—94
Statement <i>re</i> Insurance Bill	395
Statement of Business	395—96
Petroleum (Berar Extension) Bill—Considered and passed	396—97
Rules and Regulations Continuance Bill—Considered and passed	397—98
Federal Court Bill—Considered and passed	398—99
Wednesday, 29th September, 1937—	
Questions and Answers	401—05
Control of Coastal Traffic of India Bill—Motion to refer to Select Committee, negatived	405—62

	PAGES.
Saturday, 2nd October, 1937—	
107 Questions and Answers	463—80
108 Draft Conventions and Recommendations of the International Labour Conference laid on the table	480—505
607 Agreement between the Governor of Bengal and the Reserve Bank of India laid on the table	505—09
Cutchi Menon Bill—Motion to circulate, adopted	509—10
VI ^{1/2} Muslim Personal Law (Shariat) Application Bill—Considered and passed	510—11
81 Resolution <i>re</i> Ratification of the International Agreement for the regulation of production and marketing of sugar—Adopted	511—64
Bills passed by the Legislative Assembly laid on the table	564
61 Statement of Business	565
Tuesday, 5th October, 1937—	
12 Questions and Answers	567—94
2 Information promised in reply to questions laid on the table	594—98
1 Bill passed by the Legislative Assembly laid on the table	598
Indian Tariff (Second Amendment) Bill—Considered and passed	598—99
Indian Securities (Amendment) Bill—Considered and passed	599—600
Monday, 15th November, 1937—	
Members Sworn	601
Death of Mr. Ramsay MacDonald	601—02
VI ^{1/2} Questions and Answers	602—19
Congratulations to Rai Bahadur A. L. Banerjee on his appointment as Assistant Registrar in the Federal Court	619
65 Information promised in reply to questions laid on the table	620—26
66 Agreements between the Reserve Bank of India and the Government of Bombay laid on the table	626—30
13 Bill passed by the Legislative Assembly laid on the table	630
81 ^{1/2} Insurance Bill—Motion to consider— <i>To be continued</i>	631—65
Tuesday, 16th November, 1937—	
10 Questions and Answers	667—68
Insurance Bill—Motion to consider— <i>To be continued</i>	668—708
Wednesday, 17th November, 1937—	
Questions and Answers	709—20
Insurance Bill—Motion to consider, adopted— <i>To be continued</i>	721—40
Friday, 19th November, 1937—	
Member Sworn	743
Questions and Answers	743—58
Motion for Adjournment <i>re</i> Report of the Wheeler Committee on the reorganization of the Secretariat—Allowed	759—61

	PAGE.
Friday, 19th November, 1937—contd.	
Information promised in reply to question laid on the table	761
Insurance Bill—Consideration of clauses— <i>To be continued</i>	761—94
Motion for Adjournment <i>re</i> Report of the Wheeler Committee on the reorganization of the Secretariat—Talked out	794—815
Monday, 22nd November, 1937—	
Member Sworn	817
Questions and Answers	817—18
Motions for Adjournment <i>re</i> (1) Ratification of the International Sugar Agreements and (2) Contribution made by His Majesty's Government towards mechanization of the Army in India—Disallowed	818—19
Insurance Bill—Consideration of clauses— <i>To be continued</i>	819—82
Tuesday, 23rd November, 1937—	
Questions and Answers	863
Information promised in reply to question laid on the table	863—65
Insurance Bill—Consideration of clauses— <i>To be continued</i>	865—911
Wednesday, 24th November, 1937—	
Information promised in reply to questions laid on the table	913—14
Insurance Bill—Consideration of clauses— <i>concluded</i>	914—58
Thursday, 25th November, 1937—	
Short Notice Question and Answer	957
Motion for Adjournment <i>re</i> Appointment of Mr. Salt as Entomologist to the Imperial Council of Agricultural Research—Disallowed	957—60
Information promised in reply to questions laid on the table	960
Insurance Bill—Motion to pass	961—74
Statement <i>re</i> Motion for Adjournment <i>re</i> Appointment of Mr. Salt as Entomologist to the Imperial Council of Agricultural Research	975
Insurance Bill—Motion to pass, adopted	975—97
Indian Mines (Amendment) Bill—Considered and passed	987—91

COUNCIL OF STATE.

Tuesday, 23rd 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.

STAGE WHICH FEDERATION HAS REACHED AND NAMES OF INDIAN STATES WHICH HAVE AGREED TO FEDERATION.

358. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will Government kindly state the stage which the scheme of Federation has reached, and the names of the Indian States which have agreed to the Federation scheme?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Government have nothing to add to the statement of the position made by His Excellency the Viceroy in his address to the Legislature on the 13th September, 1937.

INDO-BRITISH TRADE NEGOTIATIONS.

359. THE HONOURABLE MR. G. S. MOTILAL: Will Government bring before the Assembly and this House the Trade Agreement that may be arrived at between them and the Government of the United Kingdom for ratification, or for consulting the opinion of the two Houses?

THE HONOURABLE MR. H. DOW: Government consider it would be premature to decide this question until it is clear that the present negotiations will result in an agreement and the nature of that agreement is known.

THE HONOURABLE RAO BAHADUR SIR A. P. PATRO: May I ask whether Government will be pleased to consider placing the agreement if any before this House and the Assembly before ratification?

THE HONOURABLE MR. H. DOW: Certainly Government will take that into very careful consideration.

INFORMATION PROMISED IN REPLY TO QUESTION LAID ON THE TABLE.

MARKETING BOARDS, ETC.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): I lay on the table the information promised in reply to question No. 44 asked by the Honourable Mr. Kumarsankar Ray Chaudhury on the 15th September, 1937.

Statement containing information regarding Sale Societies and Warehouses under the control of Co-operative Societies in the Centrally administered areas.

Delhi.—There are no sale societies or warehouses under the control of Co-operative societies in Delhi.

Ajmer-Merwara.—There is only one sale society at Beawar, under the control of the Co-operative Societies in Ajmer-Merwara, but no appreciable result has so far been achieved by it. There are no Co-operative warehouses in Ajmer-Merwara.

Coorg.—There are no warehouses under the control of Co-operative Societies in Coorg, but there are six sale societies, of which five deal in paddy and are designated as Crop, Loan, Sale and Supply Societies and the remaining one which deals in honey and wax is known as the Honey and Wax Producers' Society.

Paddy trade in Coorg had been monopolised by outside traders who used to under-rate its price and keep the producer in the dark about the prospective rise in its price. These outside traders were only middle men and used to keep a high percentage of profit at the cost of the poor ryots. The sale societies were organized to combat this evil, their aim being to secure the best price available in the paddy market.

The market for paddy is usually dull during the months of January, February and March being the harvest season and improves during the period from August to November. The members of the society deposit paddy in the stores during the harvest season and receive about 40 to 50 per cent. of its value at the then prevailing market rate to meet urgent necessities. They strike their bargain finally during the months of September, October or November. One great advantage the depositors have in their depositing paddy in the Co-operative stores is that they are usually granted time for payment of their dues to Government, such as assessment and takkavi loans. This arrangement has enabled the ryots to keep their paddy until the maximum price is available for their produce.

Each of the societies stock and dispose of 5 to 15 thousand butties of paddy every year. While the working of the societies in general is satisfactory, some of the societies have suffered loss for want of proper store houses and experience in the management. The societies have had also to pay high rent on godowns and due to vermin and damp the paddy stocked also used to get spoiled. The Government have recently advanced adequate loans on easy terms of repayment to some of the societies to enable them to construct rat proof godowns and to save the high rent. A Co-operative Inspector has also been appointed to be in charge of those societies for frequent supervision.

The Honey and Wax Producers' Society was started early in the year 1936. As in the case of paddy Coorg honey was being mainly purchased by outside traders at a very low price. The Coorg honey mainly came from ryots in rural areas and on account of the low price that was being realised for it the ryots were not enthusiastic in collecting honey and making any living out of its sale. As Coorg honey is not inferior to any other kind of honey it was considered that arrangements should be made for its organised production and wider sale in an attractive form with the idea of giving an impetus to the ryots to take up bee culture on scientific methods as a form of rural industry and to increase the income they would derive from its sale. To this end Government has appointed a bee instructor whose work it is to instruct, advise and encourage ryots and others in keeping bees and collecting and it can be safely said that bee-keeping has become popular.

At present the Society purchases honey from the ryots at 2½ seers per rupee and after distillation, clarification and blending it is sold in ¼ lb. and ½ lb. bottles for about Rs. 1-8 and annas 12 respectively.

The following is the report on the working of these societies during 1936-37 :—

Crop, Loan, Sale and Supply Societies.—Two societies of this type were registered during the year raising the total number to 6.

The Kiggatnad Society.—The membership further increased from 241 to 252. The total receipts amounted to Rs. 38,620 and disbursements to Rs. 38,615 leaving a closing balance of Rs. 5. The working of this society may be said to be satisfactory.

The Virajpet Society.—The membership increased from 157 to 167. The total receipts amounted to Rs. 27,871 and disbursements to Rs. 27,315 leaving a closing balance of Rs. 556. This society is improving.

Ammatti Society.—The membership increased from 52 to 91. The total receipts amounted to Rs. 23,408 and disbursements to Rs. 22,975 leaving a closing balance of Rs. 433. This society continued to work satisfactorily.

Sanivarsante Society.—Forty-four members were enlisted during the year raising the total membership to 53. The total receipts amounted to Rs. 1,286 and disbursements to Rs. 1,170 closing balance being Rs. 116. This society is still in its infancy and attention is being bestowed to work this up on sound lines.

Mercaranad Society.—This society was registered on 22nd May 1936 and enlisted 25 members with a share capital of Rs. 102.

The society registered for Murnad did not commence working. The working of this and the newly registered Mercara society will be watched with care.

The Honey and Wax Producers' Society.—This novel type of society which was started last year commenced to work during the year and enlisted 86 members with a share capital of Rs. 609. The total receipts amounted to Rs. 12,129 and disbursements to Rs. 11,909 leaving a balance of Rs. 220 at the close of the year. Rs. 1,263 worth of honey and wax were purchased and sales totalled Rs. 1,320. This society is working on sound lines.

The Government was pleased to sanction Rs. 1,500 for purchasing appliances, out of the Government of India Rural Uplift Grant, Rs. 350 from the discretionary grant and Rs. 400 worth of timber free of cost for preparing hives.

INSURANCE BILL—*contd.*

Clause 2—contd.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Mr. President, I give my hearty support to the amendment* moved yesterday by my Honourable friend Mr. Sapru. Let me begin by stating, as Mr. Sapru did, that I have not the slightest objection to a man with actuarial qualifications being appointed as Superintendent of Insurance. The object of the amendment, as Mr. Sapru pointed out, is only to widen the field of choice and enable Government to appoint anybody whom they consider fit for the post of Superintendent. If a man with actuarial qualifications can be found who is possessed of all the qualities that a Superintendent of Insurance should possess, no one here will have the slightest objection to his appointment. But we do think that actuarial qualifications alone ought not to be considered when Government are making their choice. The powers and functions of the Superintendent are not defined in any one clause of the Bill. They can only be gathered from a perusal of several clauses of the Bill. Going through these clauses one finds that it will not be the business of the Superintendent merely to examine the returns and accounts which he receives from insurance companies; he will under the Bill be much more than an actuary. He will be a trusted adviser of Government in all matters relating to insurance. He will be their adviser on all administrative questions and questions of policy. Again, his powers which will be both extensive and onerous should be exercised in such a way as to further the progress of the insurance movement on sound lines. He will have to be a man of tact, of judgment and of wide understanding. It will not be his function merely to punish the erring companies or to order the liquidation of companies that have invested their funds unwisely. It will, as I read the Bill, be his chief concern to guide, supervise and control the activities of the insurance companies. And an actuary may not necessarily possess these additional qualifications which a successful Superintendent of Insurance should have.

In asking that Government should not lay down in the statute that the Superintendent should be a man possessed of technical qualifications, we are asking them to follow their existing practice in many of their departments. My Honourable friend Mr. Sapru gave a number of illustrations yesterday. I can add to them by citing the examples of some departments with which we are familiar in this House. Take the Railway Department

*"That in sub-clause (12) of clause 2 the words 'who shall be a qualified actuary' be omitted."

[Pandit Hirday Nath Kunzru.]

first. The Railway Board have a Financial Commissioner but this Financial Commissioner is not always a man belonging to the Indian Audit and Accounts Service. In fact he is seldom a member of that service. Generally, he is chosen from the I.C.S. The Financial Commissioner, as his name shows, has to deal with the finances of railways. If technical qualifications are required for any post, one would think that they would be required for this post. Yet Government have as far as possible appointed I.C.S. officers to this post. Take another post. that of the Military Financial Adviser. I do not think a member of the Indian Audit and Accounts Service has ever held that post.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary): He has.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Permanently? My Honourable friend is speaking of ancient times. He was perhaps at one time the Controller of Military Finance.

THE HONOURABLE MR. J. C. NIXON: He was Financial Adviser, Military Finance.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: But I gather from replies given to some questions in the other House that a member of the Indian Audit and Accounts Service is not eligible for appointment to this post at present. It appears, therefore, that men possessing technical qualifications are the very men who are debarred from acting as Military Financial Advisers now. Any man may be appointed, a man from the I.C.S. or a retired General from the army or anybody else whom Government may wish to favour, but the only man who cannot be appointed is the man who belongs to the Indian Audit and Accounts Service. Take yet another case, that of the Official Draftsman who is helping my Honourable friend the Law Member in piloting this Bill through the House. He is a member of the I.C.S. I know he is also a Barrister-at-Law but I think I may safely say that that is only a minor qualification in his case; he has learnt all his work in the Legislative Department. I doubt whether under any other Government the Draftsman would be chosen from any of the permanent services. Take again, if further illustrations are necessary, the Central Board of Revenue. Here the members of the Board do not necessarily belong to any of the particular services controlled by the Board; they are only men possessed of experience and ability. If these qualifications stand Government in good stead in all the posts to which I have drawn the attention of the House, I see no reason why a man with good general qualifications should not be appointed as Superintendent of Insurance and why the choice of Government should be restricted in this particular case to a man possessing the technical qualifications of an actuary?

Sir, if I may go outside the ranks of Government service, I would point to the appointment of liquidators by courts. One would think that liquidators should possess technical qualifications, that they should be Chartered Accountants or men of corresponding qualifications in order to be able to discharge their duties thoroughly; but they are frequently drawn from the class to which my Honourable friend the Law Member belonged before he became a Member of the Executive Council of the Governor General. Now it has not been said that these lawyers have failed to discharge their duties

efficiently. This illustration further shows that technical qualifications are not necessary to the discharge of duties which require something more than technical qualifications.

Coming to the insurance business itself, how are the managing directors and the managers of insurance companies chosen? These people are concerned with the solvency of their companies; they have to examine the accounts and go minutely into the affairs of their companies, to consider the reports which they receive from their actuaries, and so on. But the fact that they do not possess technical knowledge does not stand in the way of the efficient discharge of their responsibilities. So if in the field of insurance itself we find that the most responsible positions are occupied by men who are neither actuaries nor accountants, on what ground can Government object to the appointment of a man who is not an actuary as Superintendent of Insurance?

Sir, apart from these general examples, I claim to have the authority of my Honourable friend the Law Member on my side. The question of appointing an actuary as Superintendent of Insurance was referred to in another place in the course of the debate on this Bill on the 31st August last. Mr. Sen who was speaking on behalf of Government—

THE HONOURABLE THE PRESIDENT: The Honourable Member should not read from that report; he can paraphrase it.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I am not reading from the Assembly proceedings; I am merely referring to them.

Mr. Sen who was speaking on behalf of Government was asked by Mr. Jinnah as to what were the views of Government with regard to the qualifications of the Superintendent of Insurance. My Honourable friend the Law Member got up to reply to Mr. Jinnah's question. He said when the matter was considered by the Select Committee a suggestion was made that the Superintendent should be an actuary, but that he had himself opposed that suggestion. The reason given by him for opposing the suggestion was that he was under the impression that the Government Actuary would continue. He therefore thought that Government need not have two actuaries. He understood subsequently, however, that if insurance work was transferred from this actuary there would be no justification for keeping him as a full-time servant. In view of that, he said, Government thought that an actuary was necessary as Superintendent of Insurance. Now, Sir, whether Government can have a permanent whole-time actuary or not is a question to which I shall come a little later. But the statement made by my Honourable friend the Law Member shows that on principle there can be no objection to the appointment of a layman as Superintendent of Insurance provided Government have an actuary to help the Superintendent of Insurance in the examination of accounts and returns that would be received from the insurance companies. There can, in the opinion of my Honourable friend himself, be no objection to appointing a man not possessing actuarial qualifications as Superintendent of Insurance. Then the question narrows itself down to this. Will Government have to appoint a full time actuary or not in case the Superintendent is not an actuary? I understand that the work in the department is much more than one actuary can handle; indeed, considering the duties that have been laid on the actuary, one may well doubt whether one or even two actuaries would be able to deal promptly with the work that will devolve upon them. And it is

[Pandit Hirday Nath Kunzru.]

the view also of those who are qualified to speak on this question that whoever the Superintendent may be Government will need an actuary if they wish the Bill before the House to serve its purpose. If this be so, Sir, the Superintendent, if he is not an actuary, will, with the assistance of a qualified actuary, be fully capable of discharging the duties placed on his shoulders by the measure before us.

Now, Sir, I do not pretend that this is the only reason why I am giving my support to the amendment moved by my Honourable friend Mr. Sapru. One of our objects in moving this amendment is that it should be possible for Government to appoint Indians to this post. I know that there are fully qualified Indian actuaries, but I understand that their number is small. Those of them who possess appreciable experience are already employed and may not care to accept the post of Superintendent on any salary that Government are likely to be able to offer. I am sure that my Honourable friend the Law Member will not consider such a desire on our part illegitimate; indeed, when amendments were proposed in another place for fixing the qualifications of the Superintendent my Honourable friend declined to accept an amendment which asked for a "fully qualified actuary". The reason which he gave for declining to accept that amendment was that he understood that a fully qualified actuary was one who possessed fifteen years' experience and that in consequence Indian actuaries would be shut out. Now, my Honourable friend refused to accept the amendment, not because it was not good in itself, but because it would have prevented the appointment of Indians. If that consideration is legitimate in his case, is it not legitimate in ours? Can we not with much greater force press on Government the desirability and indeed the necessity of appointing an Indian to this post the holder of which must possess not merely technical knowledge but experience of the world, sympathy, and a desire to promote Indian insurance business?

The manner in which certain appointments have been made of late makes us feel that if the clause which we are considering were left unamended the choice of the Government would fall on a non-Indian. The Government of India Act provides for the appointment of a Financial Adviser by the Viceroy. In the meanwhile, however, Government have taken steps to appoint an Economic Adviser; he is to be an European. They have also appointed an Income-tax Adviser; he too is an European. The circumstances in which he was appointed are well known to the House. And now our fear is that if the Superintendent of Insurance must be a qualified actuary the choice of the Government would again fall on a non-Indian. We shall thus have foreign advisers in all those departments which are concerned with the economic life of the nation. Is that a desirable state of things I ask? Is it not necessary that, in a vital matter like the economic interests of the country, officers should be chosen who would be sympathetic to the aspirations of the country and who, because of their birth and up-bringing, would be inclined to put forth their best efforts in order to promote the economic advance of this country?

There is another reason also why I look with suspicion on the appointment of economic advisers by Government. We are all familiar with the example of Egypt where self-government existed in name but where the advisers appointed by the British Government controlled the Egyptian Government in reality. I know that the constitution of Egypt has changed in consequence of the treaty recently entered into between the Egyptian

Government and His Majesty's Government. But the manner in which the British advisers formerly appointed to the most important departments of the Egyptian Government reduced the Ministries to a cipher makes us fear that, if in India too advisers are appointed in the most important departments, the Ministers of the future would be reduced to a helpless position.

Sir, it seems to me that since the advent of provincial autonomy the Government of India have been making determined attempts to reserve posts under themselves as far as possible for non-Indians. Finding the provinces closed to Britishers, they are anxious to create as many posts as possible under themselves for the appointment of Britishers and to appoint them as far as they can to all responsible posts. It will perhaps also be true to say that in proportion as the possibility of establishing the Federal Government comes within range of practical politics the Government are taking steps to appoint British advisers in order to control the Ministers.

Sir, if I may sum up, it seems to me that whether we consider the question on general grounds, or from the point of view of the appointment of Indians, or the future of constitutional Government in this country, it is equally necessary that the amendment put forward by my Honourable friend Mr. Sapru should be accepted by the House. My Honourable friend the Law Member has taken up a somewhat intransigent attitude on this question. He has shown that he can listen to our arguments when they appear to him to be cogent. I hope that he will show a similar flexibility of mind on the present occasion and be prepared both as the Member in charge of the Bill and as an Indian to give his support to this amendment which at the least is necessary in the best interests of the development of insurance business in this country.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Sir, I also rise to support the amendment moved by my Honourable friend Mr. Sapru. Yesterday he moved his amendment so ably that he left very little, or no ground for us to cover, but I find that his cogent reasons and weighty arguments have had no effect on the Central bloc or the Treasury Benches. After him we have heard the impassioned speech of my Honourable colleague Pandit Kunzru. I wish and I do hope that his performance had some effect on even this block of ice but this being the winter season it is difficult to think that it will melt! Realizing that even reasons have no effect, I would not be justified in assuming a pessimistic attitude and sitting down disappointed but I have still some faith left and I do hope that it will not be shattered when the thing is to be finally decided upon. I shall therefore try to do the impossible and try to carry conviction to the Members opposite that this amendment is a necessary amendment. From the speech of the Honourable the Law Member, we understood that there is a general conviction on the other side of the House that actuarial qualifications are essential for a Superintendent. I shall deal with this aspect in some detail later on but here I should like to state first what are our own demands. Our demand, first and foremost, is that we want the first Superintendent of Insurance to be an Indian and not only an Indian but a first rate Indian and the reason why I

*Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

oppose the appointment of a European is not based on colour prejudice or Anglophobia. The only reason why we oppose the appointment of an European is that at the present moment we find that the greatest recommendation of an European for appointment in India is his complete ignorance of conditions in India! The greater his ignorance, the greater his claim to be appointed as special adviser or in any other capacity! The more knowledge he has of India, the more disqualified he is to hold a position of trust in the Government of India. We would be blind to the reality of the situation if we were to trust that in the case of the Superintendent of Insurance the Government will deviate from the established policy if it appoints a European at all. Secondly, the Honourable the Law Member has shown extreme care. He has been more than lenient towards the young companies. He is prepared to support this even at the cost of the policy-holders. Then, if we have an unsympathetic Superintendent of Insurance, what will happen? All his intentions will remain a dead letter and they will not fructify. It is for these reasons that we wish that an European should not be appointed and that an Indian should be appointed. If we have this qualification still on the Statute-book, what will happen? As far as I know there are only five Indians who are Fellows of the Institute of Actuaries and all of them are so well provided that it will be difficult, if not impossible, to get any of them to come to the Government of India. Even the Actuaries to the Government of India, the late lamented Mr. Mukherjee, was not a fully qualified actuary. If in the past we could have an Associate of the Institute of Actuaries as the Actuary to the Government of India, we would not be justified in thinking that in appointing the Superintendent the Government of India would look into that field alone and without any distrust of this body of men, I would say that they have not passed out of the final examination and they had no practical training in England, the only place from which you get the actuaries at the present moment for India. What would be the position? There are men who have passed the first, second and third actuarial examination held in India with two or three or four years' experience and they will be foisted as experts to examine the work of Fellows. Is it correct to ask a matriculate to examine the papers of an M.A.? That is what the Honourable Member is doing. If we want to have an actuary, we should be prepared to spend Rs. 5,000 a month and appoint a really first class man who will command the respect of all the actuaries and highly technically qualified people who are attached to insurance companies, the better class insurance companies, both Indian and European. If you do not have a fully qualified man, you will be making a laughing stock of yourself. If you wish to have a technical man, be prepared to pay him that remuneration which will attract really first class men or do not have a technical man. Without a technical man you can do well. The Premier of a Congress province, drawing Rs. 500 a month, is bossing over the Chief Secretary drawing Rs. 3,000 a month. There is no stigma attached to it. He belongs to a different class. He is not a Civil Servant. He is a public man. But you cannot ask a junior officer of three years' service, an under secretary, to boss over the chief secretary. That is exactly what you are doing in the field of insurance. You want to appoint an Associate Member to examine and pass strictures on the actuarial valuation and reports of Fellows. Nothing can be more absurd than this.

Sir, we are grateful to the Honourable Pandit Kunzru for having informed us of the opinion of the Law Member in the beginning and how it was modified in the other House. Without any disrespect to the Congress, I may say that he was swayed a great deal by the economy mania of the Congress. They want to save the Government some expenses. They thought—rightly or wrongly; I do not attribute any motive to them—that they would be conferring a benefit on the people through the Government of India by restricting the appointment to only one, that is, that they should appoint only one person to be both Actuary and Superintendent. I do not attribute any motives, but they were actuated by this—

THE HONOURABLE MR. G. S. MOTILAL (Bombay: Non-Muhammadan): A noble motive.

THE HONOURABLE MR. HOSSAIN IMAM: A very noble motive but misplaced. They thought, Sir, they would be making some saving in the expenditure of the Government and therefore they mooted this proposal. They did not realize, or perhaps it was not brought prominently before their eyes, that there are so many insurance companies and so many returns to be submitted that it is almost impossible for any one or two men to cope with the whole work. I said, Sir, that the actuarial part of the work of the Superintendent of Insurance is not even five per cent. and that 95 per cent. of his work is non-actuarial, according to this Bill. I shall quote chapter and verse for it. If Government give us an assurance that they are going to follow the Congress and have only one man and that too on Rs. 500 a month, well, reluctantly we will consent to it. But if we find that Government simply wish to take shelter behind the Congress and to make a show that they accept the proposals of the Congress without any intention of following the spirit, I would say that they are misusing the Congress, just as I find that this House is being misused to rectify the mistakes of the Assembly, to correct the mistakes which they have made in English and other things. The Honourable Mr. Bartley is moving amendment after amendment to clarify the wording—

THE HONOURABLE THE PRESIDENT: It is the duty of the revising Chamber.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the revising Chamber has better things to do than this. This is a very paltry work and it would be very difficult for us if we are only here to put in commas and semi-colons. We thought we were meant for something better than this. If the Honourable the Law Member, through our own weakness, thinks that this is the only use to which this House can be put, I should reconcile myself, Sir, because as I said in the beginning, we are ourselves to blame for this mentality and not the Government.

The Superintendent of Insurance is the chief executive officer of this small department which is going to be opened in the Government of India. Up till now, the Government Actuary had very little business to transact. His work mostly consisted in compiling and publishing the *Insurance Year Book*. But now his duties have been completely changed, and incidentally, a new source of income has been opened to the Government from the licensing fees for licensing agents. So, Government have not to spend

[Mr. Hossain Imam.]

anything from the taxpayer's money. It should be a more or less self-contained department which will pay its own expenses, and if necessity arises, we might increase the licensing fee, because it is almost ridiculous to have a fee of one rupee for a man who wants to get a licence to earn a comfortable living. A man who cannot earn even Rs. 20 a month in the insurance field—I particularly take a small figure—has no right to remain as an insurance agent. He must belong to a class of persons who should be at least superior to the labourers. He must have some education, and Rs. 20 is the barest possible minimum on which an educated person can possibly live even in the communist regime. For a man to earn Rs. 250 a year, he should pay Rs. 2 as licensing fee, or even Rs. 3 if need be—four annas a month. It is almost the fee of the Congress membership.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Is he guaranteed Rs. 250 a year?

THE HONOURABLE MR. HOSSAIN IMAM: If he cannot earn even Rs. 250 a year, he has no business to remain in the business and he must go out. As I said, Government need not bother themselves about the expensiveness of this because they will get income from the licensing fees, and if the income is not sufficient, it is open to them to come before the Legislature and ask for this fee to be raised to meet their expenses. Therefore, Sir, the bogey of expensiveness is only a bogey and there is nothing in it.

I shall revert to my first point whether an actuary is required for the post of Superintendent or not and I am going to deal in some detail with the question whether the work of the Superintendent is of an actuarial nature or not. I have taken some pains to go through the five parts of this Bill and I find that he has been mentioned in clauses 3, 4, 10, 12, 14, 15, 17, 18, 19, 20 and 28. In clause 3, Sir, his work is clerical. He has to register companies. That is clerical work. He next appears in clause 3(3) which gives him power to cancel a registration already made. This does not require an actuary. This is purely an executive function or rather I should say a judicial function. He appears again in sub-clause (4) where he is empowered to cancel registration. Is that actuarial work? Do you want an actuary to do this work? Is it work which the Honourable Mr. Bartley could not perform himself without having any knowledge even of accounts? Then he appears in sub-clause (5) where he has to give notice of his intention to cancel. Then we come to clause 4 and we find that the Superintendent of Insurance has to see that the names of two companies are not the same. I submit that this work which even a person who is not an accountant could do. He is mentioned again in sub-clause (2) of clause 4 where he has to give sanction to the same thing. That too is not actuarial work. Then we come to clauses 10 and 12 which deal with the returns, accounts and other things to be submitted by the insurers. For that we have to refer to the Schedules and I have taken pains to go through the Schedules as well and I find that most of the Schedules have nothing to do with actuarial work. Form A, the balance sheet is a thing which an accountant and auditor does in every incorporated company. No industrial company maintains an actuary. If it is necessary to have an actuary, make it a law that every company incorporated in India must have an actuary because he has to file a balance sheet. (*An Honourable Member*: "An

actuary does not draw balance sheets.") That is what I say. The Superintendent has to look through the balance sheet. Does it want actuarial knowledge to examine a balance sheet? If it does then why not have all Registrars of Incorporated Companies also actuaries. Form AA is the classified summary of the Indian assets. That is a clerical job. It does not require even executive or accounts knowledge. You have simply to verify that so much is held by the insurance companies in India. Then we come to Form B, profit and loss account. It is just the same as for other Indian companies. You do not want an actuary to examine the correctness of this form. We come to Form C, profit and loss appropriation account. Does it require any specialized knowledge of valuation of assets calling for a qualification other than accountancy? Form D, form of revenue account applicable to life insurance business. That too, if you wade through it, does not require any actuarial knowledge. Forms DD, DDD and DDDD are the same. No actuarial knowledge is required in examining or preparing them. Form E is the revenue account applicable to marine insurance business. That is applicable to very few companies and it is not an actuarial work. Form F for fire insurance is of a like nature. I challenge the Government to contest these contentions that no actuary is required to examine or to prepare these returns.

Now we come to the Fourth Schedule under section 12. Part of it no doubt is actuarial. That is why I said that out of 100 per cent. only five per cent. wants actuarial knowledge. Form G under the Fourth Schedule is not actuarial, the consolidated revenue account. The only two forms in which actuarial knowledge is required are Forms H and L. In the whole Bill these are the only two forms which are actuarial in nature; none of the others require actuarial knowledge. Here too I shall show how this part of the work can also be done without having an actuary as Superintendent of Insurance. I was dealing with clause 12 when I went into the Schedules. Although in clauses 10 and 12 there is no mention of the Superintendent of Insurance, he comes in through clause 14 where there is a reference that all these accounts and statements referred to in sections 10 and 12 shall be submitted to the Superintendent of Insurance. In clause 14 he appears three times, once that his business is to keep those accounts, and in the others it is required that he should be furnished with four copies. These things are technical, but the only place where actuarial knowledge comes in is as regards two forms submitted under clause 12. In clauses 17 and 18 which I have also traced out he does not require any actuarial knowledge. The only other place where a shadow of actuarial knowledge is required is in clause 20, where it says that if the Superintendent of Insurance finds that the returns are defective may take certain steps. Now how is he to find that the forms are defective? It may be argued that this is where we want an actuary. But as I said at the beginning the number of statements to be submitted to him are enormous and out of those only two require a knowledge of actuarial work. What is the position? All these returns will have to be submitted by an actuary himself. When the insurer submits those accounts they must be countersigned by an actuary, and an actuary of any standing and self-respect who is even a little conscientious in his work would not submit a false return or a made-up return. If he does, then have you reserved power for yourself to disallow him to practice? This was an essential part of the Bill which has been neglected by Government. No penalty has been placed debarring him

[Mr. Hossain Imam.]

from practising in future in India if he is once detected and found guilty of submitting false returns. For neglecting your duty you are going to penalize us. We must make up for your mistakes.

Then the Superintendent is mentioned again in the clauses relating to inspection and amalgamation. In regard to inspection he has been authorized to appoint an auditor or actuary or both, not being an auditor or actuary in the employ of the insurer, to investigate the figures of the insurer, or may himself make such investigation. Although he has been given power to investigate himself, primarily it was expected that he would appoint independent auditors and actuaries to go through the accounts.

12 NOON. This meant that when the Government realize that the Superintendent will be hard worked and he will have no leisure to wade through the accounts of the different companies who might be guilty of not carrying on business on proper lines. Therefore here too there is no necessity of having an actuary because you have empowered him to take the help of the technical man. He again appears, Sir, in clause 30 in the case of amalgamation and transfer of insurance business. There too in sub-clause (3)(c) you have asked the insurer to submit an actuarial report on the scheme and that scheme has to be approved by the court. It has got to be approved by the Superintendent of Insurance. He comes in in his capacity of an adviser and nothing more. It is purely a matter for the courts to decide. Therefore that too is not a reason why we should have an actuary.

Sir, I shall not weary the House with further discussion on the details of this Bill. I will now conclude by saying that in the Superintendent of Insurance you want either of two kinds of men, either an executive man or an insurance man. I do not mind if an I. C. S. officer is appointed; he may be an European or an Indian because at least he has knowledge of conditions in India. He does not possess that great qualification of gross and colossal ignorance of Indian affairs. We want either an executive officer with experience of accounts work or we want an insurance man. If you could get a man with prolonged experience of insurance work he would be an ideal man to have in this place, because he would have first-hand information and knowledge of the ins and outs of the business. There are many things which are not apparent from books of accounts and notes submitted to the office. There is a great deal to be learnt outside in the fields and that is why in the I.C.S. there is so much insistence that the officer should begin his career with a knowledge of the districts. Is it not necessary that our Superintendent of Insurance should have also a knowledge of the districts of insurance, that he should have seen how work is done in the field organization and other kinds of work, so that he may know exactly how people manage to evade the law if they want to do it, because our greatest danger is not that people will go against the law as they will try to evade the law and work in a manner which like half-truths may not be a lie but may be much more dangerous than that? Similarly, if they get round the letter of the law they go away scot-free unless you have a man of knowledge there to find out and to point out to you that here your law is defective. I would particularly appeal to the Finance Department who have specially imported a man from England just to avoid these evasions. They found that evasion was too great and the people here were not able to stop the holes. Similarly, if we have an insurance

man, even if we do not appoint him permanently there is no harm in appointing him for a temporary period of three or five years. Borrow a man from one of the companies if you cannot get a man to come to you straight off, because no one will be prepared to give up a career to work for the Government of India. You can easily enough get a loan from one of the big insurance companies of a man for a term of years who could train up your men in the office to assume this charge at some future date. What I wish to state in a nutshell is this. We want a man of experience in accounts who will inspire confidence and not a stop gap who is there merely because of the favour he receives from one of the Government Members. He must command respect from his confreres and you cannot have it unless you are either prepared to pay a very high salary if you insist on having an actuary. And here I should like to say one word more, which had escaped me. The Honourable Mr. Bartley is going to move an amendment for the removal of the word "qualified".

THE HONOURABLE MR. J. BARTLEY (Government of India: Nominated Official): No, Sir, I do not propose to move that amendment.

THE HONOURABLE MR. HOSSAIN IMAM: I am spared from making any remarks on that.

Sir, I support the amendment.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I did not intend to intervene in this debate at all this morning, but the observations that fell from my Honourable friend Mr. Hossain Imam make it obligatory on me to say something about the position of the Congress Party in this House in regard to this amendment. I may at once tell Mr. Hossain Imam that the Congress Party in the Assembly were not influenced by any motive or afflicted by any mania, either of economic or any other variety, in voting for the clause as it stands. I will remind this House that the Government were faced with two amendments in the lower House. One came from the European Group. A member of that Group moved that the officer to be appointed as Superintendent should be a fully qualified actuary. He explained the intention of his amendment by further elucidating his position that a fully qualified actuary meant a man with at least 15 years' practical experience. The other amendment was by the Congress Party and it merely said a qualified actuary. The Honourable the Law Member who dealt with both the amendments said that he could not accept the amendment of the European Group because it had the definite result of shutting out an Indian from being appointed. And he said that he accepted the amendment moved by the Congress Party because it gave scope to the Government of India to appoint an Indian if they could do so. Therefore, whether the Congress Party in the other House was right or wrong in having moved the amendment, the object of the amendment was to enable the Government of India to appoint an Indian if they could find one and saved them from the disability which would have been imposed upon them if they had accepted the amendment of Mr. Aikman. The Congress which stands for 100 per cent. Indianization of the services cannot be accused of having done anything in the other House, of being a party to any legislation which would prevent the Government of India from appointing an Indian. In so far as my friends of the Progressive Party have urged on the Government of

[Mr. Ramadas Pantulu.]

India the necessity of appointing an Indian, we stand shoulder to shoulder with them. We would not like the Government of India to appoint anyone else except an Indian. Sir, with regard to the question whether an Indian with the necessary qualifications can be had or not, I would ask my Honourable friends of the Progressive Group to refer to the definition of the word "actuary". An actuary is defined as meaning an actuary possessing such qualifications as may be prescribed and the wording of the clause as it stands, that it should be a qualified actuary, neither adds to nor takes away anything from the definition of "actuary". And therefore the Government of India in making rules can so make them as to prescribe the qualifications in such a manner as to make it possible to find Indians for the post. If it is possible, the Government of India might lay down that he need not be a Fellow but may be an Associate, he need not be a man possessing full technical qualifications. Sir, I am not one of those who think that there are no men in India possessing the qualifications necessary for a Superintendent cum actuary, or that it will be impossible for the Government of India to appoint an Indian Superintendent who has the qualifications of an actuary as they may by rules prescribe.

Sir, the question of salary does not come in for two reasons. First of all, in other fields of services Indians with very high qualifications and technical knowledge are willing to take up appointments which carry less salaries and emoluments than they have been getting as non-officials; for instance, lawyers of eminence like the Law Member who were earning many more times their salaries have come to serve, and both British and Indian lawyers have come to accept positions in the High Courts merely in the interests of the public and to make available their expert services to the people. Therefore, I think, an Indian actuary, though he is getting large remuneration by private practice, can be found to accept this position if the Government of India chooses to approach him.

Sir, it has been said that a Congressman could not agree to a large salary for the post because of the limitation imposed on the salaries which may be drawn by Government officials, but fortunately the Karachi Congress excluded and exempted technical and special appointments from the scope of its resolution. Therefore, if the Honourable Mr. Nixon thinks that Rs. 5,000 is a suitable pay for the post, the Congress does not stand in the way of the appointment.

THE HONOURABLE MR. HOSSAIN IMAM: What about the Advocate General?

THE HONOURABLE MR. RAMADAS PANTULU: Advocate Generals with large incomes at the Bar have taken positions in the High Courts on much less salaries.

Sir, I am only trying to show that, while the Congress Party in the other House thought that an actuary is necessary for the post of Superintendent of Insurance, and we also think so, we want that an Indian should be found and appointed for this place and I hope the Government of India will find it possible to place the Superintendent's post in the

listed posts. It will be quite possible for the Honourable the Law Member and the Leader of the House to influence the Government of India and His Excellency the Governor General to put this post among the listed posts. Therefore, Sir, we fully support the Progressive Party in their demand for that. (*An Honourable Member*: "Do you support or oppose the amendment?") In regard to the vote on the amendment, I am afraid that the Congress Party may not be able to vote for it, because the amendment about actuarial qualification was moved and voted for by the Congress Party as a body in the other House. But our sympathies are entirely with the Progressive Party and we stand by them in demanding that the Government of India should appoint an Indian.

THE HONOURABLE MR. G. S. MOTILAL: Sir, the question has been dealt with very exhaustively by the speakers who have preceded me. I do not therefore feel I shall be justified in taking a long time over this question. But I do desire, Sir, to emphasise that the essence of this amendment is that Indians should not be debarred from holding this position and from being appointed to the post. The manner in which recent appointments have been made in the spheres which affect the economic life of the country has really made us apprehensive that this post of Superintendent of Insurance may also go likewise to a non-Indian, that advantage may be taken of this section as it stands, to put in a non-Indian and deprive an Indian of the opportunity of serving his country. Sir, there are very few Indians, it is true, who are actuaries but few as they are the fittest amongst them should be given a chance to serve his country in this responsible position. It is the duty of the Government of India to offer this post to an Indian and persuade him to accept it.

Sir, with these words, I support the underlying intention of this amendment, namely, that an Indian should be appointed to this post.

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member): Sir, I do not deny that there is considerable force in many of the arguments which have been advanced from the opposite Benches, and the House should not think that, if I am unable to accept the amendment, it is because I take a very light view of the points made by the Opposition or that I simply brush them aside as not worth considering. What influences the opinion of Government in this matter is, if I may once more put it before the House succinctly, that, whatever may have happened in other appointments, one of the duties of the Superintendent is to scrutinize, to vet and to check reports made by other actuaries. We know—it is a matter of common knowledge—that many of the reports which are put in by insurance companies are reports made by highly qualified actuaries, by Fellows and Associates, and so on. If one has to sit in judgment over matter which requires high technical knowledge, the reports which have been certified by other actuaries, it is idle to contend that the Superintendent of Insurance should not have actuarial knowledge himself, Sir, it is all very well to give examples of the administrative powers and the quasi-judicial powers which are vested in the Superintendent. But that does not get away from the point that with his very large powers under section 20, if his judgment is concerned, then he must have high actuarial qualifications. It is no good turning round to an assistant and saying: "My dear fellow, is this all right?" and the assistant says: "Yes, you can

[Sir Nripendra Sircar.]

go on with it, you need not bother about it". That will not do. My Honourable friends have been giving so many examples. It is not difficult to mention by way of illustration other examples. If I may give one; supposing you want a man whose duty will be to examine papers in mathematics and also take charge of the college hostel. Now, let us imagine that the candidate is a man of great influence with the boys, his moral character is so high that it cannot be reached by others, and that he is an ideal person for exercising a good influence on students. But is it any good having a man there for this composite job whose knowledge of mathematics is nil? No. And it is idle to say that under the provision of this Bill the actuarial duties, or rather the duties which require actuarial knowledge, are incidental, or negligible. No, Sir, it is not. Because, after all, when you talk of administration, one should not forget that the administrative step which has got to be taken may depend on what the Superintendent finds in these actuarial reports. He takes administrative steps for requiring that something should be done, but preliminary to taking these administrative steps the Superintendent has possibly to decide that the actuarial reports by highly qualified actuaries which have been sent up, are defective, incorrect, or are inconsistent with actuarial principles applicable to the case. Therefore, I maintain that it is really necessary for the Superintendent to be an actuary.

THE HONOURABLE MR. HOSSAIN IMAM: What are the actuarial reports which he wants?

THE HONOURABLE SIR NRIPENDRA SIRCAR: I will refer only to such matters as are really relevant; because my Honourable friends have spoken for nearly three hours and if I refer to every individual argument which has been repeated, not once but many times, I may be wasting the time of this House. My simple answer to this interruption which is not wanted is, "Please read and consider clause 20 and see what follows". (Interruption.) Sir, I do not propose now to take notice of further interruptions. As was very rightly pointed out by one of the Honourable speakers, the qualifications have to be prescribed by rules, but one has got to remember that these rules cannot be arbitrary rules. One has got to bear in mind that the Superintendent must be a man who would be able to check the reports made by other highly-qualified persons. Sir, the points of view of Indianization, of "recent" appointments and of other general matters have been brought into this are large questions, which I leave alone for the present but I take my stand on the point which I have indicated to the House originally as also in my speech here and although there have been so many speakers and we have heard this matter debated at length, it may not be altogether useless to point out that the matter came up in another place also and there we did not find this strong objection; on the other hand, it was carried practically unanimously, barring a few dissentient votes. I do not mean that this House is not entitled to take a completely different view to what was done in another place. I do not suggest that and I do not want some Honourable friend here to continually tell me that the Law Member thinks this is only a revising Chamber when in fact I do not think so. You may take what view you like but I cannot be altogether uninfluenced by the fact that other people.

not much less competent, possibly equally competent as this House to decide and rule on this point have indicated what they think fit.

Sir, I oppose.

THE HONOURABLE THE PRESIDENT: The Question is:

"That in sub-clause (12) of clause 2 the words 'who shall be a qualified actuary' be omitted."

The Council divided:

AYES—9.

Abdus Sattar, Hon. Mr. Abdur Razzak Hajee.
Hossain Imam, Hon. Mr.
Kunzru, Hon. Pandit Hirday Nath.
Mahapatra, Hon. Mr. Sitakanta.

Mahtha, Hon. Rai Bahadur Sri Narain.
Muhammad Husain, Hon. Haji Syed.
Pattani, Hon. Sir Prabhashankar.
Sapru, Hon. Mr. P. N.
Sinha, Hon. Kumar Nripendra Narayan.

NOES—28.

Akram Husain Bahadur, Hon. Prince
Afsar-ul-Mulk Mirza Muhammad.
Ataullah Khan Tarar, Hon. Chaudhri.
Bartley, Hon. Mr. J.
Buta Singh, Hon. Sardar.
Charanjit Singh, Hon. Raja.
Chinoy, Hon. Sir Rahimtoola.
Clow, Hon. Mr. A. G.
Das, Hon. Rai Bahadur Satyendra
Kumar.
Devadoss, Hon. Sir David.
Dow, Hon. Mr. H.
Ghosal, Hon. Sir Joana.
Govindachari, Hon. Rao Bahadur K.
Hissam-ud-Din Bahadur, Hon. Lt.-Col.
Sir Shaikh.

Hydari, Hon. Mr. M. S. A.
Ismail Ali Khan, Hon. Kunwar Hajee.
Jagdish Prasad, Hon. Kunwar Sir.
Khurshid Ali Khan, Hon. Nawabzada.
Menon, Hon. Diwan Bahadur Sir
Ramunni.
Mukherjee, Hon. Rai Bahadur Sir Satya
Charan.
Nihal Singh, Hon. Sirdar.
Nix n, Honourable Mr. J. C.
Parker, Hon. Mr. R. H.
Patro, Hon. Rao Bahadur Sir A. P.
Reid Kay, Hon. Mr. J.
Russell, Hon. Sir Guthrie.
Sircar, Hon. Sir Nripendra.
Thorne, Hon. Mr. J. A.
Williams, Hon. Mr. A. deC.

The Motion was negatived.

THE HONOURABLE THE PRESIDENT: It is necessary now to put clause 2 for the final acceptance of the House, but in view of the two amendments of the Honourable Mr. Kumarsankar Ray Chaudhury I cannot do so unless we get out of the way clause 37. I would like to know if the Honourable the Law Member will agree to our taking up clause 37 now?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I agree to that course.

THE HONOURABLE MR. HOSSAIN IMAM: I think we had better start with clause 33.

THE HONOURABLE THE PRESIDENT: You ought to remember that you suggested, when these two amendments Nos. 12 and 13 were being discussed, that they could not be disposed of and that clause 2 will have to be postponed till the House had disposed of clause 37. The Honourable the Law Member had agreed to that. Therefore, we will first take up at this stage amendments relating to clause 37 and then I shall put clause 2 and take the sense of the House on that.

THE HONOURABLE MR. HOSSAIN IMAM: I think we finished yesterday up to clause 32 and then reverted to clause 2. We might now proceed with clause 33.

THE HONOURABLE THE PRESIDENT: That makes no difference whatsoever. I prefer to take clause 37 first.

Clause 2 held over.

Clause 37.

***THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan):** Sir, I beg to move:

"That clause 37 be omitted."

Sir, this clause deals with the licensing of agents. As I submitted in my original speech, the object of the licensing seems to me to realize some funds for the establishment of the Superintendent of Insurance, otherwise there is no other point of view stated for the licensing of agents during the course of the arguments either in this House or in the other place. Licences have to be granted as a matter of course provided the person is not insane or has not been found guilty of some offences. So, there is no object in granting licences. Penalties have been imposed for the violation of the provisions of the Act itself. That does not depend upon whether a licence is granted or not. An insurance agent will be responsible for those offences all the same whether he gets a licence or not. If he acts as an insurance agent, he will no doubt get his commission. A licence, as I have already stated, is to be granted as a matter of course provided the man does not suffer from some of the disabilities which are mentioned. Therefore, I submit that there is no reason assigned for the granting of any licence, and these poor people should not be victimized for the provision of funds for the administrative purposes of the Superintendent. They may be realized from the insurers or from other influential sources. On the other hand, I submit that the responsibility of appointing agents should be vested with the insurers themselves and they should be made responsible for the acts and omissions of the insurance agents and should keep a strict control over the terms of their employment and also notify to the persons assured of the determination of their agents. It is with that object that I move this amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. The licensing of the insurance agents was insisted upon by an overwhelmingly large section of the other House, and by strong though not unanimous outside opinion. Having regard to the very short arguments of my Honourable friend, I do not propose to say anything more than a few words on the object of licensing. It is quite true that anybody can get a licence provided he has got one rupee in his pocket, but if he is found guilty of either misrepresenting the conditions of policies or is found guilty of certain offences, and so on, then he is prevented from having any further hand in the insurance business at all. In the second place, it is necessary that there should be some kind of register and we should know exactly who these licensed agents are. I do not propose to go into the matter in great detail and I oppose the amendment.

Question put and amendment negatived.

* Not corrected by the Honourable Member.

THE HONOURABLE THE PRESIDENT: In view of this amendment being lost, the two other amendments of the Honourable Mr. Kumarsankar Ray Chaudhury to clause 2 become inoperative.

Clause 2.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 2, as amended, stand part of the Bill."

The Motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 6.

THE HONOURABLE THE PRESIDENT: At this stage I draw the attention of the Honourable Members to the fact that we had better dispose of the Honourable Mr. Motilal's amendment to clause 6 before we go to clause 32.

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

"That in sub-clause (6) of clause 6 for the words 'one third the balance' where they occur for the second time the words 'one half the residue' be substituted."

This will make it clear that the amount which he has to deposit as a third instalment is one half of the balance and it meets my purpose.

Sir, I move.

THE HONOURABLE MR. J. BARTLEY: We accept the amendment.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 6, as amended, stand part of the Bill."

The Motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 37.

THE HONOURABLE MR. J. BARTLEY: We have not yet quite finished clause 37. I do not know whether it is your intention, Sir, to finish the other amendments to clause 37 and dispose of that clause before proceeding with the other clauses.

THE HONOURABLE THE PRESIDENT: We will take up those amendments first.

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

"That in clause 37 (1) after the words 'Superintendent of Insurance' the words 'or an officer authorized by him in this behalf' be inserted."

Sir, this amendment is not absolutely formal because it has the effect of enabling the Superintendent of Insurance to devolve the duty referred to in this clause on a deputy and the power of delegation is necessary because when this section comes into force, there will be a very large number of persons in all the Provinces of India who will require to be licensed and the Superintendent of Insurance himself would be unable to deal with the task.

Sir I move.

Question put and amendment adopted.

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

"That in sub-clause (4) of clause 37 for the words 'but if the applicant does not suffer from any such disqualifications' the words 'but may if the applicant does not suffer from any of the disqualifications hereinafter mentioned' be substituted."

Sir, this is purely a formal amendment to correct the language.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, before we vote on this amendment, I should like to know the exact legal effect of the change. The clause as it stands says:

".....but if the applicant does not suffer from any such disqualifications be renewed....."

I take it that "be renewed" means "shall be renewed". Now the change that is sought to be effected is a vital one, it is not a formal change. The proposed amendment says:

"but may if the applicant does not suffer....."

What was an obligatory duty of the Superintendent is now converted into a discretionary duty. I am afraid there may be large scope for the exercise of patronage and discretion in a matter like this. I submit the change is really a vital one and not a formal change. I want to know what is the exact legal effect?

THE HONOURABLE MR. J. BARTLEY: I do admit, Sir, that "may" should be "shall" in my amendment.

"but shall if the applicant does not suffer from any of the disqualifications hereinafter mentioned."

There was no intention to alter the effect of the section. In the first portion of the sub-clause, I see the word is "shall":

"A license issued under this section shall expire on the 31st day of March in each year."

The mistake in my draft amendment is an inadvertent one. My only intention was to alter the words "such disqualifications" into "of the disqualifications hereinafter mentioned". That was my only intention. I am glad that my Honourable friend has pointed out the mistake. It should be "shall".

Question put and amendment, as further amended, adopted.

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

"That in sub-clause (5) (d) of clause 37 for the words 'it shall appear that he has been found guilty or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against the insurer or the assured' the words 'it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or an assured' be substituted."

Here again, Sir, there is no intention of altering the meaning. The only intention is to improve the wording slightly.

Sir, I move.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 37, as amended, stand part of the Bill."

The Motion was adopted.

Clause 37, as amended, was added to the Bill.

New clause 32A:

THE HONOURABLE THE PRESIDENT: We will now deal with new clause 32A.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I do not propose to move amendment No. 195.

Clause 33.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-clause (1) of clause 33 the word 'life' be omitted."

Sir, my object is to make these rules about transfer of policy applicable to all sorts of policy instead of merely to life policy.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I am opposing this amendment. I object to the word "life" going out in clause 33 which relates to assignment.

Question put and amendment negatived.

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

"That in clause 33(1) the word 'either' where it first occurs be omitted."

It is superfluous and rather misleading.

Question put and amendment adopted.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I move:

"That in sub-clause (2) of clause 33 for the word 'India' the words 'British India' be substituted."

Question put and amendment adopted.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I move:

"That to sub-clause (3) in clause 33 the following be added, namely:

'both as between the insurer and the persons interested in such policy and between such persons themselves, and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (2) are delivered.'

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I have a small suggestion to make. I accept the principle of this amendment, but I would suggest to the Honourable Member that in place of the words "both as between the insurer and the persons interested in such policy and between such persons themselves", the words "as between persons interested in the policy" be inserted. So that the clause according to my suggested amendment will read thus:

"as between persons interested in the policy and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (2) are delivered."

Question put and amendment, as further amended, adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 33, as amended, stand part of the Bill."

The Motion was adopted.

Clause 33, as amended, was added to the Bill.

Clause 34 was added to the Bill.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir may I make a suggestion about the next clause? As regards clauses 35, 36, 38 and 38A, these somewhat hang together. The position is this. A very large number of amendments have been sent in. Many of them mean changes in small dribbles, if I may say so, and some are wider. We are quite agreeable to accept some of those amendments without modification, and some others with very slight modification. I suggest to the House and to the Chair that the most convenient course would be that I may be allowed to embody those amendments with our suggestions in a new draft, which is ready, and which I can circulate today. All that I request the Chair and the House to agree to is that Nos. 35, 36, 38 and 38A may not be taken up today, and I undertake to make over our proposed amendments today. I may also add that so far as these clauses are concerned, if Honourable Members propose to move any amendments, and if they want to get them circulated today, I shall raise no objection on the ground of short notice."

THE HONOURABLE MR. HOSSAIN IMAM: We are very grateful to the Honourable Member for accommodating us.

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.

Clause 39.

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

"That in clause 39 for the words 'policy of insurance' the words 'policy of life insurance' be substituted."

Sir, clause 39 says that after two years of the issuing of a policy, it shall not be called in question on the ground of mis-statement of facts, and so on. That applies really to life policies only and not to other policies. Therefore, Sir, I move this amendment.

THE HONOURABLE MR. J. BARTLEY: Sir, we accept this amendment.

Question put and amendment adopted.

THE HONOURABLE MR. J. REID KAY (Bengal Chamber of Commerce): Sir, I move:

"That in clause 39 for the word 'insurance', where it occurs for the first time, the words 'life insurance effected after the coming into force of this Act' be substituted."

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I quite agree that in one sense it may be said that we are giving retrospective effect. But at the same time there is no hardship really if the same law is applied to policies issued before and policies issued after the coming into force of this Act. This is a change in the general law and certainly all policies ought to be subjected to it. The principle of 39 has been accepted and I

do not see any reason why it should not apply simply because the policy was taken out before the Act came into operation. Sir, I cannot accept this amendment.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, I support the amendment, and in answer to the Honourable the Law Member's question as to why it should not be applied to policies issued before the coming into force of this Act, I would say that we were not warned about this change in the law. We did not probably take sufficient care with regard to proposals accepted in 1933 or 1934, as we had no notice of this new limitation of time to question their accuracy or to dispute the accuracy of certain facts. The effect of this clause will be that any policy effected two years before the commencement of the Act could not be questioned. I think it is not fair to give retrospective effect, and therefore I submit for the re-consideration of the Honourable the Law Member whether he could not see his way to exempt policies effected before the Act?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I had no strong feelings in the matter, and after hearing my Honourable friend, I am quite willing to change my position, if I am permitted, and to accept the amendment. (Hear, hear.)

THE HONOURABLE MR. R. H. PARKER: Thank you, Sir.
Question put and amendment adopted.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, I beg to move:
"That in clause 39 for the word 'two' the word 'three' be substituted."

Sir, the only effect of my amendment would be to give three years' time to the insurers to call in question any policy on the ground of misstatement and the one extra year I ask is not very extravagant. The insured has got three years in which to make the policy into a paid up policy and before that time the insurer must have this advantage.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. I wonder if my Honourable friend is aware that I am under the belief that the Congress people were really not only keen on two years but I had some difficulty in inducing them not to cut it down to one year. In the circumstances, I do not want to have further change in this point, because the matter has been fully considered and we arrived at the figure two. Here again, there cannot be any formula by which you can say that two is bad and three is good. I admit that three gives them a little more latitude. But, Sir, I am afraid I cannot change the position which I took up in another place and which on consideration is, I think, not unjust.

Sir, I oppose the amendment.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 39, as amended, stand part of the Bill."

The Motion was adopted.

Clause 39, as amended, was added to the Bill.

Clause 40 was added to the Bill.

Clause 41.

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

"That in sub-clause (6) of clause 41 the following be omitted, namely:

'as to the costs of application under sub-section (3) be borne by the insurer and as to any other costs'."

Sir, the object of this amendment is this. The insurer is asked to deposit the money in court in order to enable the rival claimants to settle their dispute between them. There is really no reason for the insurer to bear the costs of the application. Of course the insurer will deposit the costs of the application in the court so that the court may pass such orders as it may think fit. At the end, if the insurer is not in the wrong at all, he need not pay the costs. The court will give a direction ultimately that costs should be borne by the party who is in the wrong. The insurer may be asked to deposit the costs in court, but that he should be asked to bear the costs unconditionally is unfair. I would request the Honourable the Law Member to consider this aspect of the matter.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I beg to oppose the amendment. It is really a concession to policy-holders. Cases of hardship can be made out if the clause remains as it is, equally on the other side we have got to consider the position of poor dependents after the death of the man who took out the policy. Balancing the two considerations, we came to the conclusion that the clause as drafted should be allowed to stand and I oppose the amendment.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 41 stand part of the Bill."

The Motion was adopted.

Clause 41 was added to the Bill.

Clause 42.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I do not move my amendment No. 85 but I am moving my amendment No. 86, namely:

"That in sub-clause (1) of clause 42 for the word 'one-fourth' the word 'one-third' be substituted."

Sir, I really intended that the policy-holders who are the persons primarily concerned in the good management of the company should have an adequate share in the directorate. The reason why I am not moving my first amendment is that I thought perhaps if I asked for a third the Honourable the Law Member may not have the same difficulty in giving it which he would if I asked for one-half. It is a cardinal principle of insurance that the policy-holders, at least in the life insurance business, should have a voice in the disposal of their money. The board of directors under the Indian Companies Act is the supreme administrative body. The only reason which can be urged against this amendment is that the policy-holders' directors, because of their small stake in the concern, will not take that amount of interest which an ordinary director usually takes. This is not exactly the state of affairs in the country. The ordinary directors are of three kinds. First, there are the professional directors, who grace the boards of a number of companies. F. E. Dinshaw, who was a director of more than a hundred companies was the best example of that class. He

on account of his great knowledge of business was an asset and every company aspired to have him on its board of directors. We have still two gentlemen who are on the board of directors of more than 50 companies, Sir Purshotamdas and our own colleague the Honourable Sir Phiroze Sethna. These two, Sir, are the ablest directors that we have at the present time in that part of the country. To be a professional is no longer a stigma. It is, if anything, a recommendation and better than amateurs. At the same time there is a second class of persons whom I am not going to name who are the creatures of the managing agents. Every managing agent has a certain number of directors who hold some position but really they are there to serve the managing agents and they owe their election to the board of directors merely because of the favours they receive from the managing agents. This is a dangerous class of persons because their one business on the board of directors is to serve the managing agents and they do not want and they have no desire to serve either the shareholders or the policy-holders.

THE HONOURABLE THE PRESIDENT: How will you get rid of them?

THE HONOURABLE MR. HOSSAIN IMAM: I can not get rid of them so I want to reduce their number, because if I give a greater number to the policy-holders I will incidentally reduce the number of such directors coming in. There are again a third class of directors who know nothing of the business. We have had some cases coming to court where it was shown that a director not knowing English and not knowing any business methods has signed papers and done things. All these kinds of people there are in abundance. Therefore, it is not out of place to suggest that since we have accepted the principle of having policy-holders as directors we might extend it as an experimental measure to at least one-third. As the House knows, the difference between one-third and one-fourth is only of one-twelfth, and that will not make a very great difference. I know that it will be argued that a minority of one per cent. is as ineffective as a minority of 40 per cent. We ourselves have realized the effect of being a minority sitting on these Benches in this House. Nevertheless there is a possibility that in some of the insurance companies we will have directors of the calibre of the two directors I have named. There is some hope that the policy-holders' directors along with these gentlemen will be able to control the affairs of the insurers to the best interests of the policy-holders.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. I regret to say that many of the arguments are altogether beside the point and wholly irrelevant. No issue on any cardinal principle is involved. We have given 25 per cent. My Honourable friend wants 33½ per cent. No question of cardinal principle comes in in deciding whether eight and a third per cent. should be added or not.

Secondly, my friend said that some cases have come to courts where the directors were found to be ignorant. Why does he think that the directors selected by the policy-holders should be very learned? That is an argument which is beside the point. The question is whether it should be one-fourth or one-third. One has got to remember that ordinarily the shareholders have the right to elect the directors, and in this country there are so many classes of special directors who cannot be kept out. We have the managing agents' directors and other special directors. Therefore, if

[Sir Nripendra Sircar.]

you give the policy-holders one-third, I daresay in some cases no harm will be done, but in many cases this will be a serious encroachment on the right of the shareholders. In any case, Sir, I do not know of any formula by which I can say that one-third is necessarily better than one-fourth, and I see no reason for disturbing the arrangement.

THE HONOURABLE MR. RAMADAS PANTULU: The managing agents are disappearing very soon and they will have no more directors.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Then you amend the Act after three years.

Question put and amendment negatived.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, I move:

"That in sub-clause (1) of clause 42 the words 'having the prescribed qualifications and' be omitted."

Sir, if I may just refer to clause 42. It 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",

and so on. What do these words "having the prescribed qualifications" mean? Do they mean that they should also be shareholders? Are the policy-holders' directors to be shareholders also?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Not necessarily. "Prescribed" is defined in the Act.

THE HONOURABLE MR. P. N. SAPRU: Well, in view of that explanation I would beg leave to withdraw the amendment.

The amendment was, by leave, withdrawn.

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

"That in clause 42 (1) for the words 'holding policies of insurance' the words 'holding policies of life insurance' and for the words 'holders of policies of insurance' the words 'holders of policies of life insurance' be substituted, respectively."

Sir, this is a little more than formal, because although it is quite probable that the clause originally contemplated that the reference to holders of policies was to holders of policies of life insurance, it omitted to say so, but I need only point out that the correction that I suggest is desirable, because otherwise you might have people becoming qualified to be directors and to be voters by taking out a burglary policy or a motor car policy for one year; and that is why the change which I suggest should be made.

Question put and amendment adopted.

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

"That in sub-clause (1) of clause 42 after the word 'issued' the words 'on their lives' be inserted."

Sir, I may mention at once that the object of amendments 91 and 92 is precisely the same and if the principle of it is accepted I would leave it to the Honourable Member to accept either of them. Under section 42 policy-holders have a representation of one-fourth. My object is that

assignees or transferees of policies should not be elected to the board but only the people in whose name the policy is originally issued by the company. It is not very clear having regard to the wording of section 42. Policy-holder is defined as including also transferees and assignees. Therefore, I had some difficulty in knowing exactly the meaning of the expression persons holding policies. In any case my object is to see that persons in whose names policies were originally issued are entitled to be elected directors and not the transferees and assignees. If the principle is acceptable to the Honourable the Law Member, I will take either of them as he chooses, but if it is not, then it is a different matter and both the amendments fail.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose this amendment, because we are really concerned with the man who is interested in the insurance company and the man who pays the premium. He ought to have the vote. Supposing he holds a policy on the life of his wife or of his father, I do not see any reason for excluding him and therefore I would object to the narrower scope being given to it by adding the words "on their own lives". Our intention is that if he pays his premium and has taken out a policy whether on his own life or on his wife's life, it ought not to make any difference.

Sir, I oppose.

Question put and amendment negatived.

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

"That to sub-clause (1) of clause 42 the following proviso be added, namely:

'Provided however that a shareholder who is also a person holding a policy issued by the company shall not be eligible for election to the Board of Directors under this section.'

Sir, in moving this amendment I would submit to the Honourable the Law Member that he might at least concede this principle. We wanted one-third, he would not give it to us. Shareholders who hold policies stand for election as directors as shareholders and not as policy-holders. We do not want the legitimate seats on the directorate of policy-holders to be usurped by shareholders. The idea of giving certain representation to policy-holders is that they at least get one-fourth effective representation. If in the one-fourth inroads are made by shareholders by coming through the door of policy-holders' election, one-fourth will be illusory. One-fourth should be preserved from inroad by shareholders through the other door.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. This double capacity arises very often in connection with companies. For instance, a man may be a debenture-holder and also a shareholder. If debenture-holders are given certain rights in electing a certain person or in doing certain things, that right is not taken away simply because he also happens to hold five shares in the company. Similarly, a policy-holder ought not to be precluded from exercising his right simply because he happens to hold a share in the company. I cannot accept this amendment.

THE HONOURABLE SAIBED MOHAMED PADSHAH SAIB BAHADUR (Madras: Muhammadah): I feel, Sir, that the suggestion made by my

[Saiyed Mohamed Padshah Sahib Babadur.]

friend Mr. Pantulu is a very reasonable one, for it is patent that if the recommendation he has made is not given effect to, the meagre one-fourth share which has been allotted to the poor policy-holders will be further reduced. The policy-holder who also happens to have shares in the company is bound to be an influential person and if he is really a desirable individual I am sure he will find a place on the directorate as a shareholder. I do not want to deprive poor policy-holders who do not happen to be debenture-holders from getting on to the directorate of the company. If you allow the debenture-holders to come in through this back door on the board of directorate you will be faking away with one hand what you have given with the other. I feel that this one-fourth portion allotted to the policy-holder should be reserved only for policy-holders, pure and simple.

Question put and amendment negatived.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadian): Sir, I move:

"That in clause 42 after sub-clause (1) the following sub-clause be inserted, namely:

'(1A) No person shall be eligible for nomination or appointment as Director, Managing Director, Managing Agent, Chief Agent, or Agent, who has been found guilty of fraud, embezzlement or cheating, misfeasance or any other offence involving moral turpitude.'

Sir, this is a clause which I consider is a very necessary safeguard, because we find that in certain companies such persons serve on the board of directors. Therefore in order to protect the interest of the shareholders as well as the policy-holders it is essential that such persons should not be eligible for election or nomination to the board of directors. Therefore, Sir, I hope that the Honourable the Law Member will accept my amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. This involves a principle, which may be a very important principle. But I do not think my Honourable friend moved an amendment to this effect when the Companies Bill was under discussion and I do not see why such a large question should be discussed now and made applicable only to insurance companies. The second objection, Sir, is this. What is a chief agent? We had a suggested definition but it has been thrown out. So "chief agent" has not been defined. That is the second objection. My greater objection is that we should not start a principle of this kind now at this stage of the Bill and the more proper place certainly would have been under the Companies Act.

Question put and amendment negatived.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I rise to move:

"That to clause 42 the following sub-clause should be added, namely:

'(3) Three months before the election of policy-holders' directors the insurer shall prepare and keep available for sale a list of names and addresses of policy-holders entitled to vote in the election.'

Sir, a great deal was said when we were discussing the Reserve Bank Act about keeping a list of shareholders and making it available to those who desire to have a copy of it in order to seek election. After a great

deal of opposition from the Government, we got our point and it was laid down in that Act that the Reserve Bank will maintain a register of shareholders. Similarly, Sir, in the Indian Companies Act, in section 36 (2) a provision was made that a copy of the register of members will be kept and copies of it will be given to people who desired to have it and the charge per copy shall be six annas per hundred words. This was done, Sir, in order to facilitate the coming in of independent directors. Unless you made a list of shareholders and policy-holders available to the public, the result will be that the Chief Agent, the person who has not yet been described, who is so ingenious that he cannot be roped in by the Law Member, will get the control of the company's affairs. In each area two or three chief agents will combine and will send in their nominees on the board of directors so that the position of the companies will become much worse than it is at the present moment. Now they have to feed only one leech or parasite—the managing agent. Then they will have to feed this host who are lying uncontrolled at the present moment. It is for these reasons that I am moving my amendment. It might be argued, Sir, that I have not stated anything as to how these copies will be made available, at what price and in what manner they will be made available, but that can be provided for in the rule-making power under section 101.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, while I oppose the amendment, I would like to inform my Honourable friend that we put in the words "prescribed manner" in section 42 for the reason which was indicated by him in the closing sentences of his speech, that is to say, by the rules we really want to lay down the details of the procedure and while I am opposing this amendment as being one that should not find a place in the Act itself, I can assure my Honourable friend that in framing the rule under the powers given to the Governor General in Council, this will certainly be very carefully considered and if necessary such rules or similar rules will be introduced. And may I remind my friend that he has the power now to modify the rules.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, under the circumstances I beg leave of the House to withdraw the amendment.

The amendment was, by leave, withdrawn.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 42, as amended, stand part of the Bill."

The Motion was adopted.

Clause 42, as amended, was added to the Bill.

Clause 43.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in clause 43 all the words, letters, figures and brackets beginning with the words 'No insurer' and ending with the words 'to policy-holders except' be omitted."

Sir, I beg to submit that nowhere in this Act has any provision been made as to whether policy-holders are to get any benefit out of the

[Mr. Kumarsankar Ray Chaudhury.]

insurance companies. A report has to be filed by an actuary that the business is a sound one under his report, and insurance companies do their business here with some profits payable to the shareholders, with no profits payable to the shareholders and with bonuses payable to the shareholders, but there is nothing in the statute saying that bonuses shall be payable to the shareholders or that profits are to be paid to the shareholders. I submit that a provision ought to be made in the Insurance Bill that profits in the shape of bonuses ought to be paid to the insurers, and with that object I move my amendment, so that when the amendment is adopted, the section will run:

"Out of a surplus only after it is ascertained as the result of an actuarial valuation of the assets and liabilities of the insurer, dividends shall be payable to the insurer and bonus to the policy-holders in proportion of the paid-up capital of the insurer and the total premium paid by the policy-holders deducting therefrom the amount with the Reserve Bank of India under section 26 of the Act according to rules prescribed under the Act",

so as to make it compulsory on the insurance companies to pay bonuses according to the prescribed rules to the policy-holders. With that object I move my amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. The scheme apart from its other faults is bound to be extremely complicated, and although we are going to have an actuary who will know mathematics, still it will be very laborious to work this out. But quite irrespective of that argument, why should we lay it down in the law the amount of bonus to be declared? It must be left to the good sense of the company.

Sir, I oppose.

Question put and amendment negatived.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I move:

"That in clause 43 after the word 'shall' the words 'in respect of such life insurance business' be inserted."

Sir, I do not think there is any necessity to make a speech.

THE HONOURABLE MR. J. BARTLEY: Sir, we are prepared to accept the amendment.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

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

The Motion was adopted.

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

Clause 43A.

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

"That clause 43A be omitted."

Sir, I shall read the clause so that the House may grasp the implications. It reads:

"An insurer shall give notice within three months of a policy lapsing informing the assured of the amount required to change the policy into a paid up policy within one year after such notice, if so desired by the assured".

Now, if we refer to section 100A (1), we find that it lays down that a policy shall acquire surrender value only after three years, if payment has been made in the meantime, but it does not acquire surrender value before payment has been made for three years. Therefore if an insurance company is to give notice from month to month it will serve no useful purpose. At the end of this section 43A there is the phrase "if so desired by the assured". Now—

THE HONOURABLE SIR NRIPENDRA SIRCAR: If my Honourable friend will allow me to interrupt him, may I draw his attention to the next amendment? If he thinks that is an improvement which will satisfy him, we undertake to move it.

THE HONOURABLE MR. G. S. MOTILAL: In that case I ask leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

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

"That for clause 43A the following clause be substituted, namely:

"An insurer shall, within three months of the lapsing of a policy of life insurance, give notice to the policy-holder informing him of the options available to him".

Sir, I think that the purpose of this redraft of clause 43A has already been made fairly clear by what has been said by the previous speaker. It is not easy to interpret the clause as it stands, but it might be interpreted as being inconsistent with clause 100A. At the same time it will be noticed that this amendment of mine inserts a reference to life policies. Obviously the clause ought only to apply to life policies and this point was also overlooked in the original clause.

Question put and amendment adopted.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That in clause 43A after the words 'policy lapsing' the words 'for non-payment of premium or on any other ground' be inserted."

Sir, this amendment and the subsequent ones standing in my name all deal with the same matter: my object in moving them is that I want to make it obligatory on the company to convert a policy and not leave it to their mere option—

THE HONOURABLE THE PRESIDENT: Is not this amendment irrelevant after what has been passed?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Strictly speaking it is, because Mr. Bartley's amendment No. 103 has been carried. As a matter of fact the House will not find the words "policy lapsing" in this section.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Then I withdraw my amendment.

The amendment was, by leave, withdrawn.

THE HONOURABLE THE PRESIDENT: The Question is:

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

The Motion was adopted.

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

Clause 43B.

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

"That in clause 43B for the words 'and answers' the words 'put to him and his answers thereto' be substituted."

THE HONOURABLE SIR NRIPENDRA SIRCAR: We are willing to accept the amendment.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

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

The Motion was adopted.

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

Clause 43C.

THE HONOURABLE MR. J. REID KAY: Sir, I move the amendment, with this slight modification, that for the words "and/or where" in the seventh line, the words "or on the principle that" be substituted. The amendment will now read as follows:

"That for clause 43C the following clause be substituted, namely:

'43C. No insurer shall after the commencement of this Act begin or after three years from that date continue to carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of a distribution of certain sums amongst policies becoming claims within certain time-limits or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming insured or as immediate cash bonuses or otherwise.'

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise."

Sir, I move as amended.

THE HONOURABLE MR. J. BARTLEY: Sir, you will observe that it is stated here that for clause 43C the following clause be substituted. There is also the proviso to clause 43C of the Bill, and if this Motion is put as it stands, namely, "That for clause 43C the following clause be substituted", my subsequent amendment No. 117 will be ruled out. The amendment should read "That for the first paragraph of clause 43C the following clause be substituted", leaving the proviso to stand.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, we accept the amendment, and I think I ought to inform the House that for this improvement we are greatly indebted to the joint efforts of Messrs. Vaidyanathan and Sturgeon who were here, and I have no hesitation in accepting the amendment in the form in which it has been moved.

Question put and amendment, as further amended, adopted.

THE HONOURABLE MR. J. BARTLEY: Sir, I do not wish to move No. 116, but I should like to move No. 117 with one incidental change which has become necessary on the carrying of amendment No. 115. The word "further" should be put in after "provided", and it should read "Provided further that an insurer", etc. Sir, I move:

"That in clause 43C for the proviso the following proviso be substituted, namely:

Provided further that an insurer who continues to carry on insurance business on the dividing principle after the commencement of this Act shall withhold from distribution a sum of not less than 40 per cent. of the premiums received during each year after the commencement of this Act in which such business is continued so as to make up the amount required for investment under section 26."

The object is merely to change the wording so as to make a little clearer the sense which it was intended to express by this proviso.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

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

The Motion was adopted.

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

Clauses 44, 45 and 46 were added to the Bill.

Clause 47.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-clause (1) of clause 47 for the word 'life', where it occurs the first time, the words 'different classes' be substituted."

Sir, my object in moving this amendment is to make this and the following amendments to this section apply to other classes of insurance also.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, the provisions of this section are intended to apply to life insurance, and we do not propose that they should apply to other classes of insurance business.

Question put and amendment negatived.

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

"That in proviso (b) of sub-clause (2) of clause 47 for the words 'policy owners' the word 'policy-holders' be substituted. This corrects an error of misprint.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 47, as amended, stand part of the Bill."

The Motion was adopted.

Clause 47, as amended, was added to the Bill.

Clauses 48, 49 and 50 were added to the Bill.

Clause 51.

THE HONOURABLE MR. J. REID KAY: Sir, I move:

"That in clause 51 after the word 'company', where it occurs the first time, the words 'for the purposes of a cash distribution of the assets' be inserted."

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, we accept this amendment.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 51, as amended, stand part of the Bill."

The Motion was adopted.

Clause 51, as amended, was added to the Bill.

Clause 52 was added to the Bill.

Clause 53.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in clause 53 after the words 'as similar thereto as may be' the words 'or other necessary retaliatory requirements' be inserted."

Sir, my object is that the same retaliatory measure or similar measure may not be effective at all, and therefore I submit that other measures should be adopted to make it more effective.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I oppose the amendment. Nothing could be more vague, indefinite or meaningless than the words "or other necessary retaliatory requirements".

Sir, I oppose.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 53 stand part of the Bill."

The Motion was adopted.

Clause 53 was added to the Bill.

Clause 54.

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

"That in clause 54 for the words, letter and brackets 'in the matters specified in (f) above' the words, letter and brackets 'in the matters specified in clause (f) above' be substituted."

This also merely corrects a practically clerical error.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 54, as amended, stand part of the Bill."

The Motion was adopted.

Clause 54, as amended, was added to the Bill.

Clause 55.

THE HONOURABLE MR. J. REID KAY: Sir, I move:

"That in clause 55 the word 'British' where it last occurs be omitted."

THE HONOURABLE SIR NRIPENDRA SIRCAR: We accept the amendment.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 55, as amended, stand part of the Bill."

The Motion was adopted.

Clause 55, as amended, was added to the Bill.

Clause 56.

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

"That in clause 56 the word 'which', where it occurs the second time, be omitted."

Sir, it is not intended that the clause which follows, namely, "receives premiums or contributions" should be confined only to "a body of persons". The word "which" here is superfluous and misleading.

Question put and amendment adopted.

THE HONOURABLE MR. J. REID KAY: Sir, I move:

"That in sub-clause (a) of clause 56 the word 'or' be omitted and after the word 'person' the words 'or the survival by a person of a stated age or contingency' be added."

It is merely combining (a) and (b).

THE HONOURABLE SIR NRIPENDRA SIRCAR: We accept this, but as (a) and (b) are being amalgamated, (b) will disappear.

THE HONOURABLE MR. J. REID KAY: I have got an amendment to that effect—the next one.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Thank you.

Question put and amendment adopted.

THE HONOURABLE MR. J. REID KAY: Sir, I move:

"That sub-clause (b) of clause 56 be omitted."

Sir, this is in consequence of the last amendment.

Question put and amendment adopted.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That to sub-clause (h) of clause 56 the words 'or the Central Government in Centrally administered areas' be added."

*Not corrected by the Honourable Member.

[Mr. Kumarsankar Ray Chaudhury.]

Sir, that sub-clause deals with "any other contingency which may be prescribed or authorized by a Provincial Government". I would add "Central Government in Centrally administered areas" to this sub-clause.

THE HONOURABLE MR. J. BARTLEY: Sir, I do not quite see what the object is, but I think the amendment is unnecessary. The sub-clause says "any other contingency which may be prescribed". That means, prescribed by rules made by the Central Government. Therefore it would be the Central Government that would be operating in that case. Now consider the words "or any other contingency which may be authorized by a Provincial Government, or the Central Government in Centrally administered areas"—let us take the Chief Commissionership of Delhi for instance. By the expression Provincial Government when applied to a Centrally administered area the Central Government is meant. So that I think this amendment is unnecessary.

Question put and amendment negatived.

THE HONOURABLE MR. J. REID KAY: Sir, there is a small addition to amendment No. 136, a copy of which I think you have. Therefore, I move:

"That to sub-clause (h) of clause 56 the words 'with the approval of the Central Government' be added and for the word 'authorised' the words 'which may be authorised' be substituted."

THE HONOURABLE MR. J. BARTLEY: We accept that as an improvement on the wording.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 56, as amended, stand part of the Bill."

The Motion was adopted.

Clause 56, as amended, was added to the Bill.

Clause 57.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in clause 57 the following be inserted at the beginning, namely:

'Subject to the provisions of sections 60A and 60B'."

Sir, as I propose to insert two other sections, namely, 60A and 60B, providing for the compulsory payment of profits to shareholders and the preventing of a policy from lapsing owing to the non-payment of premium, I say that this amendment ought to be made.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment. The principle of the provision which my Honourable friend wants to introduce has already been opposed by me in connection with life insurance and the House accepted that opposition. On the same ground I oppose this amendment.

Question put and amendment negatived.

*Not corrected by the Honourable Member.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 57 stand part of the Bill."

The Motion was adopted.

Clause 57 was added to the Bill.

Clauses 58, 59 and 60 were added to the Bill.

New clauses 60A and 60B.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That after clause 60 the following clauses be inserted, namely:

60A. All profits of a Provident Society shall be distributed between its shareholders and policy-holders in proportion of the paid up capital of the society and the total premium paid up by the policy-holders after deducting therefrom the sum deposited with the Reserve Bank of India under section 63 according to rules prescribed under the Act.

60B. Every Provident Society shall give notice within three months of a policy lapsing for non-payment of premium or on any other ground informing the policy-holder of the prescribed amount required to change the policy into a paid up policy under rules prescribed under this Act within one year after such notice and shall so change the policy upon such payment being made within that period by the policy-holder."

"Sir, as I said on a previous occasion, my object in moving these amendments is that provision ought to be made by which the provident societies shall be bound to pay profit to the policy-holders and also be bound to renew policy even on non-payment of premium if the policy-holder satisfies the conditions required in the notice.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I have already twice opposed the principle of this amendment within the last half an hour.

I oppose this amendment.

Question put and amendment negatived.

Clause 61 was added to the Bill.

New clause 61A.

*THE HONOURABLE MR. HOSSAIN IMAM: Sir, instead of amendment No. 139 as printed in the list, I wish to move a substituted Motion, though short yet it covers the original idea. It runs:

"That after clause 61 the following clause be inserted, namely:

'61A. The provisions of section 27 shall apply to provident societies as they apply to insurers.'

Sir, that was the real intention and it is not necessary to move such an elaborate amendment.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, we accept the amendment.

THE HONOURABLE THE PRESIDENT: The Question is:

"That new clause 61A stand part of the Bill."

The Motion was adopted.

New clause 61A was added to the Bill.

Clause 62 was added to the Bill.

Clause 63.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That in sub-clause (1) of clause 63 for the words 'five thousand' the words 'three thousand' be substituted."

With regard to the working capital, Sir, I submit that Rs. 5,000 should be reduced to Rs. 3,000.

THE HONOURABLE SIR NRIPENDRA SIRCAR: We oppose the amendment, Sir.

Question put and amendment negated.

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

"That in clause 63 (1) after the words 'until the total amount so deposited and kept' the words 'in approved securities' be omitted."

Sir, the object is to repair the omission of the words "in cash". This object is achieved by simply omitting the words "in approved securities".

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 63, as amended, stand part of the Bill."

The Motion was adopted.

Clause 63, as amended, was added to the Bill.

Clauses 64, 65, 66, 67, 68 and 69 were added to the Bill.

Clause 70.

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

"That in sub-clause (1) of clause 70 for the words 'have the powers of and exercise the functions vested in, discharge the duties' the words 'have the powers of, exercise the functions vested in and discharge the duties' be substituted."

Sir, this amendment makes only verbal changes.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 70, as amended, stand part of the Bill."

The Motion was adopted.

Clause 70, as amended, was added to the Bill.

Clauses 71, 72, 73 and 74 were added to the Bill.

Clause 75.

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

"That in sub-clause (2) of clause 75 after the words 'provident society' the words and figures 'except a deposit made under section 63' be inserted."

Sir, this is in order to bring the section into line with amended section 26D.

Question put and amendment adopted.

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

"That in sub-clause (3) of clause 75 after the words 'held in the society' the words 'and within its surrender value' be inserted."

Sir, this makes a change to bring the wording into accord with section 26D.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 75, as amended, stand part of the Bill."

The Motion was adopted.

Clause 75, as amended, was added to the Bill.

Clause 76 was added to the Bill.

Clause 77.

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

"That in sub-clause (1) of clause 77 after the word 'visit' the words 'personally or depute a suitable person to visit' be inserted."

Sir, this is more than a formal amendment. It is designed to give the Superintendent of Insurance a power of delegation in regard to this duty imposed on him of visiting the principal office of every provident society once in two years. It is felt that owing to the very large number of provident societies that exist, if the Superintendent of Insurance must himself execute this duty and has no power of delegation, his whole time will be occupied on this one duty and he will have no time to attend to his other duties.

Question put and amendment adopted.

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

"That in sub-clause (3) of clause 77 before the words 'shall be sent' the words 'a copy of the report' be inserted."

Sir, this is merely to correct a verbal error.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 77, as amended, stand part of the Bill."

The Motion was adopted.

Clause 77, as amended, was added to the Bill.

Clauses 78, 79, 80 and 81 were added to the Bill.

Clause 82.

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

"That sub-clause (4) of clause 82 after the words 'a suitable person' the words 'in place of or' be inserted."

Sir, this is a purely formal amendment.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 82, as amended, stand part of the Bill."

The Motion was adopted.

Clause 82, as amended, was added to the Bill.

Clause 83 was added to the Bill.

Clause 84.

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

"That in sub-clause (2) of clause 84 after the word 'child' the word 'grandchild' be inserted."

Sir, this is to bring the clause into agreement with clause 59.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 84, as amended, stand part of the Bill."

The Motion was adopted.

Clause 84, as amended, was added to the Bill.

Clause 85 was added to the Bill.

Part IV.

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

"That in Part IV for the words 'Co-operative Insurance Societies' and 'Co-operative Insurance Society' wherever they occur, the words 'Co-operative Life Insurance Societies' and 'Co-operative Life Insurance Society' be substituted, respectively."

Sir, a change was made in the terminology used in the definition which was not carried out consistently in the places where the same expression is used throughout the Chapter.

Question put and amendment adopted.

Clause 86.

THE HONOURABLE MR. HOSSAIN IMAM: May I suggest to the Honourable Mr. Bartley to make a small change in 86 (a)? In the last line you have "only and all". Would it not be better if you say "all the policy-holders alone"?

THE HONOURABLE MR. J. BARTLEY: Well, Sir, I did not put forward any amendment for that, and opinions apparently differ. This was considered the better wording in the other place.

Sir, I move:

"That in clause 86 (b) for the words 'carry on business in life insurance' the words 'carries on the business of life insurance' be substituted."

This is a grammatical correction, Sir.

Question put and amendment adopted.

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

"That in sub-clause (b) of clause 86 after the words 'constitution only' the words 'original members on whose application the society is registered' be inserted."

Sir, as amended the sub-clause will read:

".....under an Act of a Provincial Legislature governing the registration of Co-operative Societies which carries on the business of life insurance and which has no share capital on which dividend or bonus is payable and of which by its constitution only original members on whose application the society is registered and all policy-holders are members".

Sir, the object of this amendment is really to bring this statute into conformity with the Co-operative Societies Act. Under Act XII of 1912, the society can be registered only on the application of ten members and they the original members. I want to bring the statute into conformity with that statute.

THE HONOURABLE MR. J. BARTLEY: Sir, we accept this amendment.

Question put and amendment adopted.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, I do not move amendment No. 160 because the previous one really covers what I wanted.

Sir, I beg to move:

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

'Notwithstanding anything contained in sub-section (f), other Co-operative Societies may be admitted as members of a Co-operative Life Insurance Society, without being eligible to any dividend, profit or bonus.'

Sir, I shall explain the position. I have given to the Honourable Mr. Bartley some literature on this subject. The definition of a member in all these Acts and also the constitutions of some co-operative insurance societies provide for the affiliation to them as members of other institutions because they work on a federal basis. But at the same time we do not allow any bonus or profit or dividend to those societies. Admission of other societies is provided for in the Co-operative Societies Acts themselves and that is not only in India but in other countries also individuals as well as co-operative bodies are admitted to membership. I want this addition to be made to this section in order to enable co-operative life insurance societies admitting other societies as members without any right to a bonus, dividend or profit. That is now in the constitution of some societies and I have given Mr. Bartley the bye-laws of such a society.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Before I can finally make up my mind as to whether I should oppose or accept this amendment I would ask the Honourable Mover what would be the exact effect of this amendment not being accepted? Supposing we have no such

[Sir Nripendra Sircar.]

provision, then what will be the exact harm or difficulty which you want to provide against?

THE HONOURABLE MR. RAMADAS PANTULU: Sir, the exact effect would be to disaffiliate the societies which are members under our constitution, and this will put us to much difficulty, because they have been discharging various useful functions. We have admitted nearly 30 to 40 societies as members in Madras. These institutions are very useful. The whole constitution of our society would have to be changed in order to remove them.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I accept the amendment.

Question put and amendment adopted.

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

"That to the proviso to sub-clause (b) of clause 86 the following be added, namely:

'If it fails to so comply, the provisions of Part IV of the Act shall not apply to it.'

Sir, I would only leave it to the Law Member that if he finds it necessary he may accept this, otherwise not. I realize that if we do not comply with these provisions within one year the penalty we should be asked to pay would be a larger deposit, as in the case of the insurer coming under the first part of the Act, and we would lose all the privileges. We are prepared for it. But I am afraid we might be brought under section 93 and be fined Rs. 1,000 a day. A similar provision to the amendment I have moved exists in the case of Provident Societies; if they issue policies above Rs. 500 nothing in Part III will apply to them.

THE HONOURABLE SIR NRIPENDRA SIRCAR: My personal opinion is that this is wholly unnecessary, because unless certain conditions are complied with then the definition is not satisfied and they do not come under it. Therefore I do think it is not wanted.

THE HONOURABLE MR. RAMADAS PANTULU: Sir, I beg leave of the House to withdraw.

The amendment was, by leave, withdrawn.

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

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

'(3) A Provincial Government may empower the Registrar of Co-operative Societies of the Province to register Co-operative Societies for the insurance of cattle or crops or both under the provisions of the Co-operative Societies Act in force in the Province.

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

Sir, in India at present we have certain societies for the insurance of cattle and of agricultural crops. They exist in Burma—which is of course not part of India now—and in Madras and Bombay. We have such societies and they are doing useful work, and after the drive which the present Viceroy has given to the breeding of cattle we are reviving

some of these societies which have gone defunct and there is a certain amount of enthusiasm and the Provincial Governments are trying to help us.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Before my friend goes any further, Sir, may I intervene with your permission. This is a question affecting the Centre and the Provinces and we would like to have a little time to consider it, and it may be held over till tomorrow, if you will permit, Sir.

THE HONOURABLE THE PRESIDENT: Yes, I will allow it.

Clause 86 was held over.

Clause 87 was added to the Bill.

Clause 88.

***THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY:** Sir, I move:

"That in clause 88 for the words 'fifteen thousand' the words 'five thousand' be substituted."

Sir, this clause deals with the working capital of mutual insurance companies and co-operative insurance societies. I submit that they are in a very bad condition now and the working capital should be reduced to Rs. 5,000.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I oppose the amendment.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 88 stand part of the Bill."

The Motion was adopted.

Clause 88 was added to the Bill.

Clauses 89 and 90 were added to the Bill.

Clause 91.

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

"That in clause 91 for the words 'a Mutual Insurance Company and Co-operative (Life) Insurance Society' the words 'a Mutual Insurance Company or a Co-operative Life Insurance Society' be substituted."

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 91, as amended, stand part of the Bill."

The Motion was adopted.

Clause 91, as amended, was added to the Bill.

*Not corrected by the Honourable Member.

Clause 92.

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

"That in clause 92 for the words 'Every Mutual Insurance Company and Co-operative (Life) Insurance Society' the words 'Every Mutual Insurance Company and every Co-operative Life Insurance Society' be substituted."

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 92, as amended, stand part of the Bill."

The Motion was adopted.

Clause 92, as amended, was added to the Bill.

Clause 93.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I move:

"That in sub-clause (1) of clause 93 for the words 'one thousand' the words 'five hundred' be substituted."

Sir, this clause deals with the penalty for default in complying with or in contravention of this Act. The penalty I submit is very heavy considering the poverty of our countrymen and I submit it ought to be reduced.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, this is the maximum and not the minimum which can be imposed as a fine.

Sir, I oppose.

Question put and amendment negatived.

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

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

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

Sir, may I explain to the House the purpose of this amendment?

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, possibly this is partly covered (although we do not state the amount of Rs. 500), by the new amendment which I have given; you have been kind enough to allow No. 163 to be postponed. If it is not too much inconvenience I would ask that No. 174 be allowed to stand over till tomorrow until my friend has seen the amendment which I have given notice of.

THE HONOURABLE THE PRESIDENT: I will not put this for vote until tomorrow.

Clause 93 was held over.

Clause 94.

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

"That in clause 94 (1) for the words and figure 'or section 7' the words and figures 'section 7, section 96 or section 97' be substituted."

Sir, in the copies with Honourable Members it will be section 6, instead of section 7. The references are to sections 88 and 89 in the Bill as it stands. This is a formal correction to import references to the other two sections dealing with deposits and working capital where they apply to mutual insurance companies and co-operative insurance societies.

Question put and amendment adopted.

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

"That the proviso to sub-clause (2) of clause 94 be omitted."

This proviso reads:

"Provided that nothing in this section shall apply to the business of reinsurance....."

Sir, I think there is no other reference in the whole Bill to reinsurance and I fear that if this were put in it might be assumed, possibly wrongly or possibly rightly, that other sections might refer to reinsurance. I prefer myself to have no reference to the subject at all.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, we introduced it with the idea that this will protect cases of reinsurance and save them from the penalty imposed by 94 (1). My friend's argument seems to be that the implication of this proviso will be that many of the sections will apply to reinsurance. Sir, I cannot concede that none of the other sections should apply to reinsurance, because reinsurance is insurance. I am afraid I am not in a position to accept this without knowing more.

THE HONOURABLE MR. R. H. PARKER: Would you consider it, Sir, and defer till tomorrow?

THE HONOURABLE SIR NRIPENDRA SIRCAR: If it can be despatched today, I would rather have that done.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 94, as amended, stand part of the Bill."

The Motion was adopted.

Clause 94, as amended, was added to the Bill.

Clauses 95, 96 and 97 were added to the Bill.

Clause 97A.

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

"That in clause 97A for the words 'Save and except where it is instituted' the words 'Except where proceedings are instituted' be substituted."

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 97A, as amended, stand part of the Bill."

The Motion was adopted.

Clause 97A, as amended, was added to the Bill.

Clauses 98, 99 and 99A were added to the Bill.

Clause 100.

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

"That in sub-clause (1) of clause 100 after the words 'or sent by' the word 'registered' be inserted."

THE HONOURABLE SIR NRIPENDRA SIRCAR: I do not want to oppose this, Sir, nor am I keen on supporting it either. If the section is left as it is with the words "by post" what is the harm done?

THE HONOURABLE MR. R. H. PARKER: It will be safer to have it by registered post.

THE HONOURABLE SIR NRIPENDRA SIRCAR: If it is left as it is with "by post" it does not prevent being sent by registered post. Option is given to send by ordinary or registered post. Is it necessary to make it compulsory to send by registered post? It might mean considerable expense?

THE HONOURABLE MR. R. H. PARKER: It is very small expense, Sir. It will go to Government.

THE HONOURABLE SIR NRIPENDRA SIRCAR: That is no doubt an inducement, but to me it is not a decisive factor. I withdraw my opposition whatever was its extent.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 100, as amended, stand part of the Bill."

The Motion was adopted.

Clause 100, as amended, was added to the Bill.

First clause 100A was added to the Bill.

Second clause 100A.

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

"That in sub-clause (1) of clause 100A (second clause bearing that number) the words 'In cases' be omitted."

Sir, this is a trifling matter.

Question put and amendment adopted.

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

"That in clause 100A, for the *Explanation* to sub-clause (1) the following *Explanation* be substituted, namely:

'Explanation.—For the purposes of this sub-section the paid up value of a policy shall be an amount bearing to the total sum assured by the policy the same proportion as the total of the premiums already paid on the policy bears to the total of the premiums payable under the policy.'

In my humble opinion, Sir, these words put the meaning intended
4.5 P.M. to be conveyed by the *Explanation* as it stands slightly more clearly.

THE HONOURABLE MR. HOSSAIN IMAM: May I ask a question, Sir? What will be the effect on the whole life policy where there is no fixed period of payment?

THE HONOURABLE SIR NRIPENDRA SIRCAR: That is not affected.

THE HONOURABLE MR. HOSSAIN IMAM: Will there be no paid up life policy?

THE HONOURABLE SIR NRIPENDRA SIRCAR: It cannot be calculated. Question put and amendment adopted.

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

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

'(2) A policy kept alive to the extent of its paid up value under sub-section (1) shall not participate in any profits of the insurer earned after the conversion of the policy into a paid up policy.'

This also is a mere verbal recast intended to be more clear, Sir.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

"That second clause 100A, as amended, stand part of the Bill."

The Motion was adopted.

Second clause 100A, as amended, was added to the Bill.

Clause 101.

THE HONOURABLE MR. HOSSAIN IMAM: May I suggest, Sir, that clause 101 may be left over till we have finished with the other clauses because we may have to provide for rule-making under sections 35 and 36.

THE HONOURABLE SIR NRIPENDRA SIRCAR: I have no objection.

THE HONOURABLE THE PRESIDENT: I do not see that any point will be gained by postponing it, but I will postpone it if it is the wish of the House.

Clause 101 was held over.

Clause 102 was added to the Bill.

Clause 102A.

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

"That in clause 102A for the words, brackets and figure 'sub-section (1)' the word, brackets and figure 'sub-section (2)' be substituted."

This is a correction, Sir.

Question put and amendment adopted.

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

"That in clause 102A the word 'British' be omitted."

THE HONOURABLE MR. J. BARTLEY: We accept that amendment, Sir.

Question put and amendment adopted.

THE HONOURABLE THE PRESIDENT: The Question is:

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

The Motion was adopted.

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

Clause 102B was added to the Bill.

Clause 102C.

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

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

'or to any insurance business carried on by the Central or by a Provincial Government, or to any Provident Fund to which the provisions of the Provident Funds Act, 1925, apply or to any Fund in existence and officially recognised by the Central Government before the 27th day of January, 1937, maintained by or on behalf of Government servants or Government pensioners for the mutual benefit of contributors to the Fund and of their dependents'."

Sir, the first portion of this reproduces that portion of clause 3, namely, the proviso to sub-clause (1), which was omitted by an earlier amendment of mine, with the addition of Central Government to the mention of Provincial Governments. The next class of insurance that is exempted from the provisions of this Act is provident funds to which the provisions of the Provident Funds Act, 1925, applies, and the third class is a certain small number of existing funds run on behalf of servants of Government and Government pensioners which are in existence at present and which are officially recognized. Some of them will die in due course, if not all of them, and the terms of the exemption do not cover any future funds which might come into existence.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I beg to move an amendment to this amendment as follows:

"That after the words 'Government pensioners' the words 'or railway employees' be added."

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I should like to know what is the kind of fund my friend has in mind? Is it a provident fund of railway people which is recognized by Government? What is its constitution? I may tell my Honourable friend that certain people saw me but could not give me sufficient information, and I confess I passed them on to my friend Mr. Hossain Imam! (Laughter.)

THE HONOURABLE MR. HOSSAIN IMAM: That was very unkind of you!

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I suggest we can take it up tomorrow.

Clause 102C was held over.

The Council then adjourned till Eleven of the Clock on Wednesday, the 24th November, 1937.