

30th August 1937

**THE  
LEGISLATIVE ASSEMBLY DEBATES**

**Official Report)**

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**Volume IV, 1937**

*(23rd August to 1st September, 1937)*

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**SIXTH SESSION  
OF THE  
FIFTH LEGISLATIVE ASSEMBLY,  
1937**



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

**L453LAD**

# Legislative Assembly.

## *President :*

THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I.

## *Deputy President :*

MR. AKHIL CHANDRA DATTA, M.L.A.

## *Panel of Chairmen :*

SIR MUHAMMAD YAKUB, M.L.A.

MR. S. SATYAMURTI, M.L.A.

SIR LESLIE HUDSON, M.L.A.

SIR COWASJI JEHangIR, BART., K.C.I.E., O.B.E., M.L.A.

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MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

## *Assistants of the Secretary :*

MR. M. N. KAUL, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

## *Marshal :*

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

## *Committee on Petitions :*

MR. AKHIL CHANDRA DATTA, \*M.L.A., *Chairman.*

SIR LESLIE HUDSON, M.L.A.

MR. M. S. ANEY, M.L.A.

MR. M. GHIASUDDIN, M.L.A.

MR. MATHURADAS VISSANJI, M.L.A.

# CONTENTS.

VOLUME IV.—23rd August to 1st September, 1937.

	PAGES.		PAGES.
<b>MONDAY, 23RD AUGUST, 1937,—</b>		<b>MONDAY 23RD AUGUST, 1937,—contd.</b>	
Members Sworn . . . . .	1—3	Panel of Chairmen . . . . .	89
Starred Questions and Answers . . . . .	3—40	Governor General's assent to Bills . . . . .	89—90
Short Notice Questions and Answers . . . . .	40—50	Agreement between the Reserve Bank of India and the Governments of Madras, the Punjab, Sind, Assam and the United Provinces . . . . .	90—109
Statements laid on the Table . . . . .	50—85	Forms of forced labour in the provinces . . . . .	106—61
Motions for Adjournment re—		Net earnings of certain newly-constructed railway lines . . . . .	161—66
Banning of the Kothapatam School of Economics and Political Science—Disallowed by the Governor General . . . . .	85	Presentation of the Report of the Public Accounts Committee for 1935-1936 . . . . .	167—365
Feelings of Indian Muslims on the Palestine question—Disallowed by the Governor General . . . . .	85—86	The Indian Companies (Amendment) Bill—Introduced . . . . .	365
Non-export of Indian sugar abroad except to Burma—Not moved . . . . .	86	The Rules and Regulations Continuance Bill—Introduced . . . . .	366
Government policy in respect of the tribes on the North-West Frontier of India—Disallowed by the Governor General . . . . .	86	The Federal Court Bill—Introduced . . . . .	366
Misrepresentation of India's feelings and aspirations at the Imperial Conference—Disallowed by the Governor General . . . . .	88	The Petroleum (Berar Extension) Bill—Introduced . . . . .	366
Protection of the interests of Indians in South Africa—Not moved . . . . .	86—89	The Indian Railways (Amendment) Bill—Introduced . . . . .	366
Indian interests at Zanzibar—Negatived . . . . .	89, 385—408	The Import of Drugs Bill—Introduced . . . . .	367
		The Workmen's Compensation (Amendment) Bill—Introduced . . . . .	367

	PAGES.
<b>MONDAY, 23RD AUGUST, 1937,—concl'd.</b>	
The Indian Naturalization (Amendment) Bill—Introduced . . . . .	367
The Manoeuvres Field Firing and Artillery Practice Bill—Appointment of certain Members to the Select Committee . . . . .	367—68
Election of a Member to the Indian Research Fund Association . . . . .	368
Resolution <i>re</i> Amendments to the Indian Legislative Rules—Discussion not concluded . . . . .	368—85
<b>TUESDAY, 24TH AUGUST, 1937—</b>	
Member Sworn . . . . .	409
Starred Questions and Answers . . . . .	409—42
Unstarred Questions and Answers . . . . .	442—45
Motions for Adjournment <i>re—</i>	
Perpetuation of the Ottawa Agreement—Not moved . . . . .	445
Reorganisation of the Imperial Secretariat—Disallowed by the Governor General . . . . .	445—46
Train disaster near Dinapore Station—Not moved . . . . .	446
Amendment of Indian Legislative Assembly Rules—Adopted . . . . .	446, 475—92
Resolution <i>re</i> Amendments to the Indian Legislative Rules—Adopted as amended . . . . .	446—53
The Trade Disputes (Amendment) Bill—Discussion on the motion to refer to Select Committee not concluded . . . . .	453—75
<b>WEDNESDAY, 25TH AUGUST 1937,—</b>	
Starred Questions and Answers . . . . .	493—524

	PAGES.
<b>WEDNESDAY, 25TH AUGUST, 1937,—concl'd.</b>	
Unstarred Questions and Answers . . . . .	524—28
Motions for Adjournment <i>re—</i>	
Creation of the post of Deputy Secretary in the Legislative Assembly Department—Withdrawn . . . . .	528
Indo-British Trade Negotiations—Withdrawn . . . . .	528
Extravagance in military operations—Disallowed by the Governor General . . . . .	528
Recommendations of the Wedgwood Committee's Report—Not moved . . . . .	528—29
Mr. Mudie's enquiry report into the Bengal Nagpur Railway affairs—Not moved . . . . .	529
Frontier policy of Government—Disallowed by the Governor General . . . . .	529
Position of Indians in Zanzibar—Barred . . . . .	529
Hunger-strike of political prisoners in the Andamans—Adopted . . . . .	529—30, 559—77.
The Insurance Bill—Presentation of the Report of the Select Committee . . . . .	530
Statement <i>re</i> new procedure regarding questions . . . . .	530—31
The Trade Disputes (Amendment) Bill—Referred to Select Committee . . . . .	531—42
The Indian Companies (Amendment) Bill—Referred to Select Committee . . . . .	542—44
The Petroleum (Berar Extension) Bill—Passed . . . . .	544

	PAGES.
<b>WEDNESDAY, 25TH AUGUST, 1937,—concl'd.</b>	
The Rules and Regulations Continuance Bill—Passed	545—58
The Federal Court Bill—Discussion on the motion to consider not concluded	558
<b>THURSDAY, 26TH AUGUST, 1937,—</b>	
Starred Questions and Answers	579—604
Unstarred Questions and Answers	604—08
Motions for Adjournment <i>re—</i>	
Hunger-strike of the Andamans political prisoners—Barred	608
Change in the prospectus of the Training Ship "Dufferin"—Ruled out of order	608—11
Inadequate representation of Mussalmans in certain Provincial Cabinets—Disallowed by the Governor General	611
Mr. Mudie's enquiry report into the Bengal Nagpur Railway affairs—Ruled out of order	611—16
Operations on the North-West Frontier—Disallowed by the Governor General	616—17
Paucity of Muslim Ministers in certain Provinces—Disallowed by the Governor General	616—17
Report of the Royal Commission on Palestine—Disallowed by the Governor General	617
The Federal Court Bill—Passed	617—28
The Indian Naturalization (Amendment) Bill—Circulated	628—43

	PAGES.
<b>FRIDAY, 27TH AUGUST, 1937,—</b>	
Starred Questions and Answers	645—76
Unstarred Questions and Answers	676—79
Statements laid on the Table	679—94
Election of a Member to the Governing Body of the Indian Research Fund Association	694
The Indian Securities (Amendment) Bill—Introduced	694
The Dangerous Drugs (Amendment) Bill—Introduced	694—95
The Indian Patents and Designs (Amendment) Bill—Introduced	695
The Indian Mines (Amendment) Bill—Introduced	695
Motion <i>re</i> Report of the Indian Railway Enquiry Committee	695—738
<b>MONDAY, 30TH AUGUST, 1937,—</b>	
Member Sworn	739
Starred Questions and Answers	739—69
Unstarred Questions and Answers	769—71
Motions for Adjournment <i>re—</i>	
Military aid to Burma—Disallowed by the Governor General	771—72
Andamans hunger-strike—Not moved	772
Committee on Petitions	772
Agreements between the Reserve Bank of India and the Governments of Bihar, Orissa and the Central Provinces and Berar, and the Supplemental Agreement with the Imperial Bank of India	772—85

	PAGES.		PAGES.
<b>MONDAY, 30TH AUGUST, 1937,—<i>contd.</i></b>		<b>WEDNESDAY, 1ST SEPTEMBER, 1937,—<i>contd.</i></b>	
The Insurance Bill—Discussion on the motion to consider not concluded	785—827	Starred Questions and Answers	911—41
<b>TUESDAY, 31ST AUGUST, 1937,—</b>		Statements laid on the Table	941—42
Member Sworn	829	Statement re treatment of questions addressed to wrong Departments	942—44
Starred Questions and Answers	829—61	Motion for Adjournment re Negotiations between the Government of India and the Princes in respect of Federation—Disallowed by the Governor General	944, 960
Postponed Question and Answer	862	The Moslem Personal Law ( <i>Shariat</i> ) Application Bill—Presentation of the Report of the Select Committee	944
Unstarred Questions and Answers	862—64	The Insurance Bill—Discussion on the motion to consider not concluded	944—60, 961—81.
Short Notice Questions and Answers	865—66		
The Insurance Bill—Discussion on the motion to consider not concluded	867—910		
<b>WEDNESDAY, 1ST SEPTEMBER, 1937,—</b>			
Member Sworn	911		

# LEGISLATIVE ASSEMBLY.

*Monday, 30th August, 1937.*

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

## MEMBER SWORN.

Mr. John Francis Sheehy, M.L.A. (Government of India : Nominated Official).

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### POSITION OF INDIANS IN ZANZIBAR.

169. \*Mr. T. S. Avinashilingam Chettiar : Will the Secretary for Education, Health and Lands, state what is the latest position with regard to Indians in Zanzibar ?

Mr. M. S. A. Hydari : The Honourable Member's attention is invited to my reply to Mr. S. Satyamurti's starred question No. 97 on the 25th August, 1937. According to information received on August 29th, some Indians in Zanzibar are now beginning to take part in the purchase and export of cloves. The Government of India once again tender the advice already given to the Indians in Zanzibar to resume the purchase and export of cloves. They repeat with all the emphasis at their command that a fair trial should be given to the new arrangements ; else they fear that by non-participation, others will capture a business hitherto predominantly Indian.

Mr. T. S. Avinashilingam Chettiar : May I know whether the Government of India are making any attempt to break the passive resistance among the Indians there.

Mr. M. S. A. Hydari : We cannot do anything more than tender our honest advice.

Mr. T. S. Avinashilingam Chettiar : My question is different. May I know whether the Government of India are helping the Zanzibar Government to break the spirit of passive resistance among the Indians there ?

Mr. M. S. A. Hydari : No.

Mr. T. S. Avinashilingam Chettiar : May I know whether the Government of India's help has been sought to introduce importers of clove here, apart from the merchants who have refused to import ?

Mr. M. S. A. Hydari : Emphatically ' No '.

( 739 )

**Mr. S. Satyamurti :** May I know whether the Government of India have heard from the Colonial Office about the appointment of an Agent on behalf of the Government of India in East Africa, especially in Zanzibar ?

**Mr. M. S. A. Hydari :** Not yet.

**Mr. S. Satyamurti :** May I know when the Government of India addressed them last ?

**Mr. M. S. A. Hydari :** I think about a fortnight ago. I am speaking from memory.

**Mr. S. Satyamurti :** May I know whether the Government of India will press upon the Secretary of State for the Colonies the urgent need for agreeing to the appointment of an Agent to watch the interests of Indians in Zanzibar ?

**Mr. M. S. A. Hydari :** We have been pressing all the time.

**Mr. S. Satyamurti :** May I know whether the Government of India have heard, except from the Government of Zanzibar, about the progress of passive resistance there ?

**Mr. M. S. A. Hydari :** No.

**Mr. S. Satyamurti :** May I know if the Government of India's attention has been drawn to Mr. Tyab Ali's speech or interview given in Bombay, after the vote of this House on the Zanzibar adjournment motion ?

**Mr. M. S. A. Hydari :** We do not consider that Mr. Tyab Ali is in a position to give us accurate information. He has been away from Zanzibar for the last year.

**Mr. S. Satyamurti :** May I know whether the Government of India have any source, except the Government of Zanzibar, to advise them or inform them, as regards the position of Indians in Zanzibar ?

**Mr. M. S. A. Hydari :** There is the Indian National Association at Zanzibar.

#### SHARES OF THE RESERVE BANK OF INDIA.

170. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Honourable the Finance Member state :

- (a) what proportions of the shares of the Reserve Bank are held by non-Indian banks, firms, and individuals ;
- (b) whether there is a maximum limit fixed for the holding of these shares ; and
- (c) whether there is any maximum limit fixed to the total number of shares that foreigners may hold in the Bank ?

**The Honourable Sir James Grigg :** (a) The information is not readily available.

(b) and (c). No. I would, however, invite a reference to the reply which I gave to starred question No. 89 asked by Mr. Satyamurti on the 25th instant.



**Mr. T. S. Avinashilingam Chettiar :** May I know whether they have called for the information ?

**The Honourable Sir James Grigg :** No, Sir.

**Mr. T. S. Avinashilingam Chettiar :** Why not, Sir.

**The Honourable Sir James Grigg :** It is not readily available.

**Mr. T. S. Avinashilingam Chettiar :** Having regard to the fact that the Reserve Bank shares should be held by Indians and not by foreigners and this being an important matter, will the Honourable Member call for the facts ?

**The Honourable Sir James Grigg :** Has the Honourable Member never heard of nominee holdings ?

**Mr. S. Satyamurti :** Have Government any bases for calculating roughly, whether a fairly large proportion of shares of the Reserve Bank are getting into non-Indian hands ?

**The Honourable Sir James Grigg :** No, Sir.

**Mr. T. S. Avinashilingam Chettiar :** May I know if those holdings are consolidated in particular hands ?

**The Honourable Sir James Grigg :** That does not arise out of the question. I am not here to pronounce upon the Honourable Member's expression of opinion.

**Mr. T. S. Avinashilingam Chettiar :** It does arise for this reason : Part (b) says : Whether there is a maximum limit fixed for the holding of these shares.

**The Honourable Sir James Grigg :** This is a question of fact. The other is a question of opinion.

#### PRESERVATION OF THE ELEPHANTA CAVES.

171. **\*Prof. N. G. Ranga :** Will the Secretary for Education, Health and Lands Department, be pleased to state :

- (a) whether the Elephanta Caves are in danger of destruction by the increasing disintegration of the mountainous structure ;
- (b) whether recently one of the lions (in stone) at one of the gates was destroyed by the fall of stones, etc., from the top of the hill ;
- (c) whether any experts had examined the hills, the nature of the preservation of the caves and the manner of saving the caves from destruction through the disintegration of the hilly stuff ; and
- (d) what are the steps proposed to be taken
  - (i) to save the caves, or,
  - (ii) if the caves cannot be saved at all, to prepare and preserve true photos and pictures of the caves and the reproduction even in miniature of the architectural parts of the caves in a suitable place ?

**Mr. M. S. A. Hydari :** (a) and (b). The Elephanta Caves are, as the Honourable Member is aware, in a very exposed situation and a certain degree of disintegration has been in process for centuries. Cracks developed sometime ago and three fragments of appreciable size fell from the Trimurti figure on the 4th January, 1935. The fall of a large fragment of rock in March last caused the breaking off of a detached stone lion of a later period.

(c) A Committee consisting of the following gentlemen was appointed by the Government of India in October, 1936, to enquire into the causes of deterioration and to suggest measures for the preservation of sculptures :

**Mr. J. F. Blakiston, Chairman.**

- |                                 |                   |
|---------------------------------|-------------------|
| (1) Dr. S. S. Bhatnagar, D.Sc., | } <i>Members.</i> |
| (2) Mr. A. Croad,               |                   |
| (3) Mr. S. N. Gupta,            |                   |

(d) The measures proposed consist of : (1) the regulation of drainage necessary ; (2) the chemical treatment of the rock surface to prevent the action of the sea salts ; and (3) the grouting of cracks with cement of approximately the same colour and texture as the rock, accompanied by the use, where necessary, of rivets or dowels of a non-rusting alloy. Action on the first point was already begun before the monsoon with satisfactory results.

**Mr. Lalchand Navalrai :** May I know from the Honourable Member whether he is in charge of the Archæological Department ?

**Mr. M. S. A. Hydari :** Yes, Sir.

**Mr. Lalchand Navalrai :** May I know when the danger to the caves appeared ?

**Mr. M. S. A. Hydari :** The danger has always been there. In December, 1934, the Archæological Department chemist was deputed to visit the Elephanta Caves and that was the first serious warning we received.

**Pandit Lakshmi Kanta Maitra :** May I know if these operations suggested by this Committee have been put into operation under the guidance of any expert of the Archæological Department or has it been carried out merely as a matter of routine ?

**Mr. M. S. A. Hydari :** The Archæological Department is an expert department.

**Prof. N. G. Ranga :** May I know if the recommendations of the Expert Committee are being implemented now ?

**Mr. M. S. A. Hydari :** Yes, Sir.

#### EXPORT OF MONKEYS.

172. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Honourable the Finance Member state :

(a) whether it is true that the export of monkeys has been considerably increasing ;

(b) what is the number of monkeys exported in 1936-37 ;

(c) to which countries are they mainly exported ; and

(d) what is the purpose for which they are exported ?

**Mr. J. A. Thorne :** (a) and (b). The figures last given to the House, in answer to Mr. C. S. Ranga Iyer's starred question No. 614 on the 21st September, 1931, were for 1930-31. The total was then 16,220. The Total for 1936-37 is 22,544.

(c) I have not yet got detailed figures, but will lay them on the table when received.

(d) I have not the material for a positive answer to this question, but there is reason to believe that the main purposes are zoological and medical research.

**Mr. T. S. Avinashilingam Chettiar :** May I ask whether these monkeys are being exported for monkey gland operations ?

**Mr. J. A. Thorne :** I have said I have not material of a positive nature as to the purposes for which they are exported, but we know they are largely used in medical research for diseases such as malaria, yellow fever and infantile paralysis.

**Seth Govind Das :** May I ask who bears the expenditure for this export ?

**Mr. J. A. Thorne :** The people who place the orders.

**Mr. T. S. Avinashilingam Chettiar :** May I know how the Honourable the Home Secretary is interested in answering this question ?

**Mr. President (The Honourable Sir Abdur Rahim) :** Next question.

#### DELAYS AND INTERRUPTIONS IN TELEGRAPH SERVICES FROM AND TO CALCUTTA.

173. **\*Mr. Sri Prakasa :** (a) Will the Honourable Member for Industries and Labour state if it is a fact that there were serious delays and interruptions in telegraph services from and to Calcutta in May last ?

(b) Is it a fact that a 40 word telegram from a Calcutta firm to its Delhi office which was booked at 1-55 p.m. on a Friday was not despatched till 3-30 a.m. on Saturday ?

(c) Is it a fact that on being interviewed by a representative of the *Statesman*, an official of the Department said that it was not customary to give any previous information of serious delays owing to any particular interruption ? If so, what is the harm if previous information is given to enable the public to book Express Telegrams and to relieve possible anxieties ?

**The Honourable Sir Thomas Stewart :** (a) Except for short spells, consequent on the dislocation which must inevitably follow from widespread damage to lines by severe storms, there were no serious delays to telegraph traffic as a whole in May last. On such occasions "ordinary" traffic must give precedence to higher class traffic.

(b) Yes. The message was an "ordinary" class press message.

(c) There appears to be some misapprehension regarding the information given to a representative of the *Statesman* by a subordinate offi-

cial of the Department. The position is that interruptions are usually restored with reasonable promptitude. Further it is generally possible to reduce delay by utilising alternative routes if these are then in a position to carry the extra traffic. Accordingly the question of whether a warning of excessive delay should be given or not has to be judged on its merits. The Department feels that it is undesirable to ask the public to incur the expense of booking their messages express unless this is really necessary. Postmasters-General have been instructed that they should publish as much information as they can having regard to the foregoing considerations.

#### POSTAGE RATES BETWEEN BURMA AND INDIA.

174. \*Mr. Sri Prakasa : (a) Will the Honourable Member for Industries and Labour state what are the present rates of postage between Burma and India ?

(b) Since when have the new rates come into force ?

(c) What has been the average gain or loss to revenue per month since the introduction of these new rates ?

(d) Are Government considering the desirability of re-establishing the *status quo ante* separation and communicating with the Government of Burma with a view to induce them to do the same ?

The Honourable Sir Thomas Stewart : (a) The postage rates as notified in the Government of India, Department of Industries and Labour Notification No. F.M.-234/36, dated the 23rd March 1937, are placed on the table.

(b) 1st April, 1937.

(c) The new rates have been in effect for too short a time to form any accurate estimate. I have no reason to believe that any loss has occurred.

(d) No.

#### *Rates of Postage.*

	As.
Letters—	
For a weight not exceeding one ounce .. ..	2½
For every additional ounce or fraction thereof .. ..	2
Postcards—	
For a single postcard .. ..	2
For a reply postcard .. ..	4
Printed papers—	
For every two ounces or fraction thereof .. ..	4
“ Blind Literature ” packets—	
For a weight not exceeding two pounds .. ..	½
For every additional two pounds up to 10 lbs. .. ..	½
For a packet exceeding 10 lbs. and up to 11 lbs. .. ..	8

*Rates of Postage—contd.*

	As.
<b>Business papers—</b>	
For a weight not exceeding ten ounces .. ..	3½
For every additional two ounces or fraction thereof ..	½
<b>Sample packets—</b>	
For a weight not exceeding four ounces .. ..	1½
For every additional two ounces or fraction thereof ..	½
<b>Air mail fee (in addition to postage)—</b>	
For letters and packets—per half ounce .. ..	2
For a postcard—per postcard .. ..	½
<b>Insurance—Available up to Rs. 3,000/-</b>	
(For Air mails—Not available).	
<b>Insurance fee—Where the value insured does not exceed Rs. 180 ..</b>	4½
For every additional Rs. 180 or fraction thereof ..	4½
<b>For a parcel weighing—</b>	
	<b>Rs. A. P.</b>
Not over 3 lbs. ..	1 4 0
Not over 7 lbs. ..	2 8 0
Not over 11 lbs. ..	3 12 0
Not over 20 lbs. ..	6 0 0

**Mr. T. S. Avinashilingam Chettiar :** Has the Honourable Member taken into consideration the data of income as compared with the previous two months ?

**The Honourable Sir Thomas Stewart :** That information I do not have.

**Mr. T. S. Avinashilingam Chettiar :** Then on what ground does the Honourable Member state that there is no loss of revenue ?

**The Honourable Sir Thomas Stewart :** We have made a somewhat imperfect comparison on the basis of an enumeration of letters carried over a comparatively short period in August. That enumeration was compared with an estimate of the traffic prepared some time ago. We are not prepared to accept that comparison as an accurate one and for that reason we can only form the merest approximation as to the comparative results of traffic this year and traffic last year.

**Mr. S. Satyamurti :** May I know whether the Government of India are aware of the statement made by the Minister in charge in the Burma Legislature that the Government of India have not approached the Government of Burma with a request for the reduction of rates ? May I know why they have not so far approached the Government of Burma ?

**The Honourable Sir Thomas Stewart :** My recollection is that we did approach the Government of Burma at or about the time of separation. I take it that the Honourable Member's remark in the Burma Assembly was probably qualified by some such utterance as "recently".

**Mr. S. Satyamurti :** May I ask whether, after the separation, the Government of India ever took up this question, that is, after the introduction of these increased rates of postage between India and Burma ?

**The Honourable Sir Thomas Stewart :** No, Sir.

**Mr. S. Satyamurti :** Why have they not taken up, and may I ask whether they propose to take it up ?

**The Honourable Sir Thomas Stewart :** They have preferred to wait until they had more experience of the actual working of the present arrangements.

**Prof. N. G. Ranga :** May I know whether the Government of India have received any representation from Indians in Burma in regard to their need for the introduction of these rates ?

**The Honourable Sir Thomas Stewart :** To the best of my knowledge, representations from Burma have not been received.

**Mr. Sri Prakasa :** May I ask if the Government raised the rates between India and Burma on their own initiative or as a measure of retaliation against the rates being raised in Burma itself ?

**The Honourable Sir Thomas Stewart :** Certainly not as a measure of retaliation.

**Fandit Lakshmi Kanta Maitra :** Is it not a fact that several representations have been made to the Honourable Member's Department for restoring the *status quo* with regard to the postal rates in Burma and India ?

**The Honourable Sir Thomas Stewart :** There have been representations from Indian trading interests.

**Prof. N. G. Ranga :** In view of the fact that lakhs and lakhs of Indian workers and peasants are employed in Burma and they send their savings to India, will Government consider the advisability of reducing the rate of money order commission from Burma to India ?

**The Honourable Sir Thomas Stewart :** That does not arise on the question of postal rates.

**Seth Govind Das :** May I ask if Government have received any representation from the Chamber of Commerce, Burma ?

**The Honourable Sir Thomas Stewart :** As far as I am aware, speaking subject to correction, such a representation has not been received.

**Mr. Sri Prakasa :** May I ask why the rates were raised at all when the old rates had been subsisting for a long time past and the rates have not been increased in the case of Ceylon, for instance ?

**Mr. President (The Honourable Sir Abdur Rahim) :** This is an argument. The question need not be answered.

#### USE OF GOVERNMENT STATIONERY AND SERVICE STAMPS FOR RECOMMENDING TITLES AND PUBLICATION OF HONOURS LIST IN THE GAZETTE OF INDIA.

175. **\*Mr. Sri Prakasa :** (a) Will the Honourable Member for Industries and Labour state if it is a fact that Government stationery

and service stamps are used by Government officials when they recommend persons for titles to His Excellency the Viceroy or His Majesty the King ?

(b) If so, do Government propose to issue instructions that Government stationery and service stamps are not used for such purposes ?

(c) Is it a fact that lists of titles are published in the Government of India Gazette ? If so, under whose orders, at whose cost, and under what rules is this official publication utilized for a purpose with which the Governor General in Council has no concern ?

**The Honourable Sir Thomas Stewart :** (a) Yes.

(b) No.

(c) Yes ; under the orders of His Excellency the Viceroy. The cost is borne by Central revenues, which receive the income from the sale of the Gazette. The Governor General in Council is concerned in ensuring that His Majesty's commands receive publicity.

**Seth Govind Das :** Are Government aware that the majority of the Indians think that this expense is absolutely useless ?

**Mr. President (The Honourable Sir Abdur Rahim) :** I cannot allow this question.

**Mr. Sri Prakasa :** With reference to the reply to part (a), may I ask whether it is under His Majesty's command that officials should recommend persons for titles on Government stationery and at Government expense ?

**Mr. President (The Honourable Sir Abdur Rahim) :** I cannot allow this question.

#### ALLEGED REMARKS BY LORD BADEN-POWELL AGAINST INDIANS.

176. **\*Mr. Badri Dutt Pande :** Will the Secretary for Education, Health and Lands state :

(a) if Government have seen the press reports of Baden-Powell's remarks regarding Indians lacking in character, honour and health and also the agitation and resentment in the press and the platform against these alleged remarks ;

(b) have Government taken any action to defend India's honour ; and

(c) what is the total amount of money the Central Government and the Provincial Governments spend in the Baden-Powell and the Seva Samiti Scout movements in India respectively ?

**Mr. M. S. A. Hydari :** (a) Yes.

(b) There is no action which Government can take as they, as such, have no concern with the Boy Scout Movement.

(c) The Government of India do not make any grant to either the Baden-Powell or the Seva Samiti Boy Scout Associations. They have no information whether any, and if so what, grants are made by Provincial Governments to these Associations.

**Mr. T. S. Avinashilingam Ohettiar :** May I ask whether Provincial organisations, like the Delhi Municipality, give any grants to this Scout Movement ?

**Mr. M. S. A. Hydari :** I have answered that.

**Mr. S. Satyamurti :** With reference to answer to part (b) of question, may I know if the Government are aware that several Government servants are associated with this Baden-Powell movement ?

**Mr. M. S. A. Hydari :** They may be, but not in their official capacity.

**Mr. S. Satyamurti :** Will Government issue instructions to their servants, as they do with regard to political activities, that they ought not to associate themselves with a movement whose head has insulted Indian character and honour ?

**Mr. M. S. A. Hydari :** That does not arise.

**Mr. S. Satyamurti :** It does arise. Clause (b) of the question says : " Have Government taken any action to defend India's honour ? " My Honourable friend has said that the Government have no action to take. I am asking for the elucidation of that answer whether Government have issued any instructions to their servants not to identify themselves with a movement whose head has insulted India's character and honour.

**Mr. M. S. A. Hydari :** I want notice of that question.

**Mr. T. S. Avinashilingam Ohettiar :** May I know whether the Delhi Municipality is giving a grant to the Scout Movement ?

**Mr. M. S. A. Hydari :** I said in answer to part (c) that we have no information of the grants Provincial Governments are making.

#### REPORT OF THE EDUCATIONAL EXPERTS.

177. **\*Mr. S. Satyamurti :** Will the Secretary for Education, Health and Lands be pleased to state :

- (a) whether the report of the Educational Experts, Messrs. Abbott and Wood, has reached the Government of India, and whether it will be placed on the table of the House ; if so, when ; and
- (b) whether the report will be sent to all the Provincial Governments for their opinion before the Government of India takes any steps in the matter ?

**Mr. M. S. A. Hydari :** (a) Copies of the report have been placed in the Library of the House and also a copy has been supplied to each Honourable Member.

(b) Yes.

**Mr. S. Satyamurti :** With reference to the affirmative answer to part (b), do I take it that the report has been sent to Provincial Governments, or will be sent ?

**Mr. M. S. A. Hydari :** Has been sent.

**Mr. S. Satyamurti :** Have the Government of India heard from the Provincial Governments ?



**Mr. M. S. A. Hydari :** No, Sir.

**Mr. S. Satyamurti :** In view of the importance of this question, do the Government propose to call a Conference of Education Ministers of all the Provincial Governments, before they take any further action, in pursuance of the recommendations of this report ?

**Mr. M. S. A. Hydari :** As a first step we propose to put this report before the Central Advisory Board of Education, which I think will meet either in December or January.

**Mr. S. Satyamurti :** My question is this. Before Government proceed to implement any of the recommendations of these experts, will they convene a conference of, or otherwise ascertain the opinion of, all Education Ministers of the various provinces ?

**Mr. M. S. A. Hydari :** We have not considered this question yet.

**Mr. S. Satyamurti :** Will they consider it ?

**Mr. M. S. A. Hydari :** Certainly.

**Mr. Lalchand Navalrai :** Will the Honourable Member send a copy of the debate to all Provincial Governments so that they may consider what has been said in this House ?

**Mr. M. S. A. Hydari :** There has been no debate.

**Mr. Lalchand Navalrai :** I mean the copies of questions and answers.

**Mr. President (The Honourable Sir Abdur Rahim) :** Next question.

#### INDIAN REVENUE RETURNS, ESPECIALLY IN CUSTOMS AND EXCISE.

178. **\*Mr. S. Satyamurti :** Will the Honourable the Finance Member be pleased to state :

(a) the latest figures with regard to the Indian Revenue Returns, especially in Customs and Excise ;

(b) whether these exceed the budget estimates ; and

(c) if so, what he proposes to do with these increased returns ?

**The Honourable Sir James Grigg :** (a) and (b). I would invite a reference to the monthly statements published by the Director-General of Commercial Intelligence and Statistics.

(c) The Honourable Member must wait and see.

**Mr. S. Satyamurti :** In view of the undoubted increases in customs and excise revenues which I have ascertained from reading the official reports and the newspaper extracts from time to time, may I ask the Honourable Member if he proposes to use all these excesses over his budget estimates, for making grants to provinces, in accordance with the Niemeyer award ?

**The Honourable Sir James Grigg :** That is a question which I have already answered. I am afraid the Honourable Member must wait and see.

**Mr. S. Satyamurti** : Have the Government already spent this money on the operations in the North-West Frontier ?

**The Honourable Sir James Grigg** : I do not know, Sir.

**TERMS OF REFERENCES OF THE COMMITTEE TO ENQUIRE INTO THE MINOR INDUSTRIES IN INDIA.**

179. **\*Mr. S. Satyamurti** : Will the Honourable Member in charge of Industries and Labour be pleased to state :

- (a) what the terms of reference are for the Committee to enquire into the minor industries in India ; and
- (b) whether it is proposed to consider all minor industries including cottage industries, and whether the Committee will be able to report on the possibilities of developing cottage industries mainly with a view to supplement the small income of labourers in the villages ?

**The Honourable Sir Thomas Stewart** : (a) As I informed Mr. Avinashilingam Chettiar on the 25th August, in reply to his starred question No. 76, no such Committee has been appointed by Government.

(b) Does not arise.

**Mr. S. Satyamurti** : I accept the correction that it is an officer's enquiry. I am asking with regard to part (b) of this question, whether the officer will be called upon, if he had not been called upon already, to examine and report on the possibilities of developing cottage industries, mainly with a view to supplement the small income of the labourers in the villages ?

**The Honourable Sir Thomas Stewart** : As I said in answer to a supplementary question on a previous occasion, I think that that is a question which ought to be addressed to my Honourable colleague, the Commerce Member, since such enquiries as are being made are made under his direction.

**Mr. S. Satyamurti** : Will he kindly convey this good suggestion to his Honourable colleague ?

**SUSPENSION OF REGULATION PROHIBITING WOMEN FROM WORKING IN MINES.**

180. **\*Mr. S. Satyamurti** : Will the Honourable Member for Industries and Labour be pleased to state :

- (a) the reasons why the Government of India decided to suspend for three months the operation of the new regulation, prohibiting women from working in mines ;
- (b) whether they have consulted relevant opinion in the matter ; and
- (c) whether they are prepared to reconsider and withdraw the order and see that no women are employed underground in mines from now, and if not, why not ?

**The Honourable Sir Thomas Stewart :** (a) The attention of the Honourable Member is invited to the Press communiqué issued by Government on the 14th June, which gives the reasons for the action taken.

(b) The opinion of the mining industry was not obtained, but expert advice was taken.

(c) No, because the withdrawal of the order without giving adequate notice to the industry would lead to dislocation of work in coal mines.

**Mr. S. Satyamurti :** In view of the inhumanity of allowing women to work underground even for a minute longer than is necessary, will the Government reconsider the position and prohibit from 1st October the employment of women in mines underground?

**The Honourable Sir Thomas Stewart :** The effect of Government orders is that as from 1st October women will cease to be employed underground.

**Mr. N. M. Joshi :** May I ask whether the Government of India can give the assurance that no more extensions will be permitted?

**The Honourable Sir Thomas Stewart :** As at present advised the Government have no intention of permitting any extension.

**Mr. Ram Narayan Singh :** What was the occasion for the suspension of these Regulations?

**The Honourable Sir Thomas Stewart :** I would refer the Honourable Member to my answer to part (a) of the question. A Press communiqué was issued on the 14th June, which gives a full explanation of the circumstances in which action was taken.

#### CONCLUSIONS ON THE REPORT OF THE COAL MINING COMMITTEE.

181. **\*Mr. S. Satyamurti :** Will the Honourable Member for Industries and Labour be pleased to state :

(a) whether the Government of India have come to any definite conclusion on the report of the Coal Mining Committee ; and

(b) whether Government will accept the recommendations of the minority, that the coal mines in India are to be nationalised, and if not, why not?

**The Honourable Sir Thomas Stewart :** (a) Conclusions, final or provincial, have been reached on some of the recommendations. The Bill which I introduced in this House on the 27th August relates to one such recommendation. A fresh set of temporary regulations covering certain recommendations of the Committee in respect of ventilation and safety lamps were promulgated on the 10th July last. The temporary regulations previously issued have been incorporated in a draft series of amendments of the permanent regulations prepared after consideration of the relevant recommendations in the Committee's report and have been referred to Mining Boards as required by the Act. Mining Boards have also been asked to consider draft regulations dealing with the certification of short firers as recommended by the Committee. The recommendations for the amendment of section 16 of the Mines Act and

for providing that agents should have the qualifications of managers have been rejected. The proposal for the amendment of the Bengal Tenancy Act has been referred to the Government of Bengal within whose competence the matter lies.

The other recommendations made by the Committee are under consideration, including those relating to the scheme for sand-stowing.

(b) Government have reached no decision on this question.

**Mr. S. Satyamurti :** Will Government be pleased to consult this House, before they make up their minds regarding the remaining recommendation, especially the one referred to in part (b) ?

**The Honourable Sir Thomas Stewart :** In so far as action taken by Government on this report involves legislation, this House will certainly be given the fullest opportunity of expressing its opinion.

**Mr. S. Satyamurti :** I know that and I trust my Honourable friend gives me the credit for knowing that Government cannot legislate, except by Ordinances, without the help of this House. I am asking whether, before they make up their minds to legislate, and on what matters to legislate, whether Government will be pleased to consult this House with regard to the major recommendations, especially the one about nationalisation of coal mines in India.

**The Honourable Sir Thomas Stewart :** Until such time as final decisions have been taken as to what action is desirable, I am afraid I cannot answer the Honourable Member's question.

**Mr. S. Satyamurti :** I want to know whether Government will consult this House, before they take final decisions on these big matters.

**The Honourable Sir Thomas Stewart :** I am not in a position to promise that.

**Mr. S. Satyamurti :** Will Government consider that question ?

**The Honourable Sir Thomas Stewart :** Certainly.

#### RECRUITMENT OF MUSLIM CLERKS IN THE BRANCHES OF THE RESERVE BANK OF INDIA.

182. \***Sir Abdul Halim Ghuznavi :** Will the Honourable the Finance Member be pleased to state :

- (a) the number of clerks employed in each of the higher and lower divisions of the clerical cadre of the Reserve Bank of India and in each of the areas of Calcutta, Madras and Bombay ;
- (b) how many of the clerks in each division and in each area are Muslims, Hindus, Christians, Sikhs, Parsis and Anglo-Indians ; and
- (c) whether the Government of India circular for providing Muslims against 33 per cent. of the vacancies has been acted upon in filling the posts of clerks in the Reserve Bank's Branches all over India ? If not, why not ?

**The Honourable Sir James Grigg :** (a) and (b). Government have no information.

(c) The recruitment of the staff of the Reserve Bank is entirely a matter for the Central Board of the Bank.

**Dr. Ziauddin Ahmad :** Will the Government collect the information on this point ?

**The Honourable Sir James Grigg :** No, Sir.

**Dr. Ziauddin Ahmad :** Why ?

**The Honourable Sir James Grigg :** Government have no responsibility for the staff and it would be rather a waste of money to collect information which in any case so far as Government action is concerned can never have any relevance.

**Dr. Ziauddin Ahmad :** May I draw the attention of the Honourable Member to the assurance given by the then Finance Member while discussing the Reserve Bank Bill that the Government will see that the interests of minorities will not suffer in regard to employment in the Bank.

**The Honourable Sir James Grigg :** Will the Honourable Member show me the exact terms of such assurance ?

#### INCREASE IN THE LATE FEE CHARGED ON LETTERS.

163. **\*Mr. Lalchand Navalrai :** (a) Will the Honourable Member for Industries and Labour be pleased to state if the late fee chargeable on postal letters has been increased from two pice to one anna in the Railway Mail Service trains ; if so, what are the reasons for the increase ?

(b) Since when was the original charge of two pice in force in India ?

(c) Is there any better advantage or service rendered to the public by the late fee being raised ?

(d) Do Government propose to restore the old late fee charges ? If not, why not ?

**The Honourable Sir Thomas Stewart :** (a) Yes. This was done in order to restrict heavy postings in Railway Mail Service trains at the last moment as such postings cause delay to the whole mail, and are likely to lead to mistakes in sorting.

(b) Definite information is not available, but it was in force in 1895.

(c) Yes. The public have been given the concession of posting their late fee letters in all mail carrying trains and Railway Mail Service Offices without any restriction—a privilege which was not enjoyed in the past.

(d) No, for reasons given at (a) and (c) above.

**Mr. Lalchand Navalrai :** May I know if the heavy postings have decreased now ?

**The Honourable Sir Thomas Stewart :** I want notice. I have no details.

**Mr. Lalchand Navalrai :** Was it only to increase the revenue that this increase was made ?

**The Honourable Sir Thomas Stewart :** No, Sir.

**Prof. N. G. Ranga :** May I know if passengers who travel by these mail trains are free to post their letters at the usual rates of postage in the R. M. S. post box ?

**The Honourable Sir Thomas Stewart :** No, Sir.

**Mr. Lalchand Navalrai :** May I know if this is a temporary measure ?

**The Honourable Sir Thomas Stewart :** No, Sir.

**Mr. Lalchand Navalrai :** Will the Honourable Member inquire into the fact whether there has been a decrease in the heavy postings, and then consider this question again ?

**The Honourable Sir Thomas Stewart :** We shall certainly inquire as to what have been the results of this measure, but I do not wish to hold out any hope to the Honourable Member that the fee will thereupon be reduced. If that were done the evil would immediately start to grow again.

**Mr. Sri Prakasa :** Is it not a fact that the "evil", as he calls it, is confined to Calcutta, and will he not consider the desirability of having an enhanced rate for Calcutta and nowhere else ?

**The Honourable Sir Thomas Stewart :** No, Sir.

#### MARKING OF POST CARDS TO SHOW THE DATE AND TIME OF THE RECEIPT

184. **\*Mr. Lalchand Navalrai :** (a) Is the Honourable Member for Industries and Labour aware that the Director General of Posts and Telegraphs has directed that no postal receipt stamp be marked on postal cards to show the date and time of the receipt of the cards ; if so, has that order been carried into effect in several post offices ?

(b) Is it a fact that objections have been called for from the public against such a system being introduced and several objections have been received ?

(c) Will the Honourable Member for Industries and Labour be pleased to state whether in view of the fact that the postal mark showing date and time is a strong piece of evidence which is often of great help in the determination of disputed cases in Courts, Government are prepared to direct that the old system of marking the postal cards showing receipt dates be restored ? If not, why not ?

**The Honourable Sir Thomas Stewart :** (a) Yes. The revised procedure has been introduced as a tentative measure for a period of one year, with effect from the end of April, 1937.

(b) No, but eight protests from members of the public have been received.

(c) The space available for the official marks of the Post Office is limited on postcards, and it was found that the written communications were frequently rendered illegible owing to date stamp impressions.

In order to avoid this it was decided that in the case of postcards there should be only one stamp impression, namely, that of the obliterating stamp of the office of posting. After the expiry of the experimental period the whole position will be reviewed in the light of the experience gained, and the objection put forward by the Honourable Member will be given full consideration before a final decision is come to.

**Mr. Lalchand Navalrai :** Is the Honourable Member aware that there is a likelihood and danger of postmen not delivering these postcards in time ?

**The Honourable Sir Thomas Stewart :** I am not so aware.

**Mr. N. M. Joshi :** May I ask whether this practice will lead to any saving of money to the department ?

**The Honourable Sir Thomas Stewart :** Infinitesimal, I should say.

**Prof. N. G. Ranga :** Why was it introduced ?

**The Honourable Sir Thomas Stewart :** I have just explained that.

#### RESTRICTION ON THE RECRUITMENT AGE IN THE POSTAL DEPARTMENT.

185. **\*Mr. Lalchand Navalrai :** (a) Will the Honourable Member for Industries and Labour be pleased to state if the recruitment age in the Postal Department of the new entrants has been restricted between 19 and 21 years ?

(b) Is it a fact that the Director of Posts and Telegraphs for Sind and Baluchistan has advertised that an entrance examination for the recruitment of subordinates of the Postal Department will be held in September 1937 and that only persons of age from 19 to 21 will be eligible ?

(c) Will Government be pleased to state the reasons for such drastic restriction of age and is Government aware that no higher educated candidate than a matriculate can appear for such entrance examinations ?

(d) Do Government propose to reopen the old system of recruitment of subordinate service ? If not, why not ?

**The Honourable Sir Thomas Stewart :** (a) Yes, in the case of admission to the services of clerks, Railway Mail Service sorters, telephone operators and telegraphists.

(b) Yes.

(c) As regards the first part, the Honourable Member is referred to the reply given in this House on the 16th October, 1936, to part (c) of Mr. N. M. Joshi's unstarred question No. 199. As regards the second part, the answer is in the negative.

(d) No ; for reasons stated by my predecessor in the reply to which reference has already been made.

**Mr. Lalchand Navalrai :** Does this apply to clerks also who draw about 40, 50 or 60 rupees ?

**The Honourable Sir Thomas Stewart :** It applies to clerks, railway mail sorters, telephone operators and telegraphists.

**Mr. T. S. Avinashilingam Chettiar :** May I know whether this applies to new entrants or old entrants who are acting ?

**The Honourable Sir Thomas Stewart :** It applies to new entrants. In order to cover the transition period we have given certain relaxations for the benefit of those of greater age who have already been employed for certain periods as temporary hands.

**Mr. T. S. Avinashilingam Chettiar :** May I know what those relaxations are ?

**The Honourable Sir Thomas Stewart :** I will read them to the Honourable Member. I—(a) Candidates who have an aggregate service of not less than 12 months prior to the 15th July last will be exempted, under the authority of the head of the circle in which they are serving, from appearing at the competitive examination, provided that, (a) they qualified in the previous entrance tests, (b) that they have a good record, and (c) that the head of the circle is satisfied that they are fully competent. These candidates will be confirmed in existing vacancies or vacancies hereafter arising, subject to the prescribed communal rotation, before any recruits who qualify in the ensuing competitive examination. II—(b) The upper age of 21 years prescribed for outside candidates should be relaxed in favour of candidates at present working who have qualified in a former entrance test or worked satisfactorily for an aggregate period of not less than four months prior to the announcement of the holding of the examination and are not 24 years of age at the date of the examination. In the case of such candidates the examination should be a qualifying one and not a competitive one and they should be considered for 50 per cent. of the vacancies reserved for departmental candidates.

#### RESTORATION OF ORIGINAL PENSIONS AFTER REALISATION OF THE AMOUNT OF COMMUTATION WITH INTEREST.

186. **\*Mr. Sham Lal :** (a) Will the Honourable Member in charge of Finance be pleased to state whether it is a fact that if a Government servant is allowed to commute a part of his pension, he is a loser after the age of 70, i.e., the deductions from his pension are more than the commuted amount paid to him at the time of retirement ?

(b) Are Government prepared to consider the advisability of making a rule that the original pension may be restored after the commuted amount with interest has been realized by deduction from pensions ?

(c) Is it a fact that there is such a rule in force in Madras with regard to pensions drawn from local funds ?

**The Honourable Sir James Grigg :** (a) I would refer the Honourable Member to the reply given by my predecessor on the 23rd November, 1933, to parts (a) to (c) of starred question No. 1127 by Mr. Gaya Prasad Singh.

(b) No.

(c) Government have no information.

**Mr. Mohan Lal Saksena :** Will Government make inquiries with regard to part (c) ?

**The Honourable Sir James Grigg :** No, Sir, because in any case Government are not prepared to give pensioners option in which they cannot lose and may in a great many cases gain.



### REPRESENTATION OF THE OLD BOYS OF THE ANGLO-ARABIC COLLEGE AND SCHOOLS, DELHI.

187. \***Mr. M. Asaf Ali** : (a) Has the attention of the Secretary for the Department of Education, Health and Lands been drawn to a representation sent by the old Boys of the Anglo-Arabic College and Schools of Delhi to the Honourable the Chief Commissioner, the full text of which appeared in column 2, page 3 of the *National Call* of Tuesday, the 3rd August, 1937 ?

(b) Is it a fact that the sole administrator of the Itimaduddaulah Endowment is the Chief Commissioner of Delhi ?

(c) If the reply to part (b) is in the affirmative, is it proposed that the Committee appointed by the Chief Commissioner to manage the affairs of the College and the School partly financed by the interest on the Endowment fund, should consist of persons representing the different interests of educational experience pointed out in the representation referred to in part (a) ? If not, why not ?

(d) Will Government please state what steps they propose to take to overhaul the Managing Committee ?

**Mr. M. S. A. Hydari** : (a) Yes.

(b) to (d). Enquiries have been made and a reply will be furnished on receipt of information.

### RESTORATION OF SALT CONCESSIONS.

188. \***Mr. K. Santhanam** : Will the Honourable the Finance Member please state :

(a) whether since 1st April, 1937, any Provincial Government has asked or suggested the restoration of salt concessions of the Gandhi-Irwin Pact in places from which they had been withdrawn ;

(b) if the reply to part (a) be in the affirmative, what action has been taken by the Government of India ;

(c) whether the Government of India still adhere to the policy indicated in reply to a supplementary question published on page 1084 of the Assembly Debates, dated the 26th February, 1937, that the advice of local authorities will be invariably accepted ;

(d) whether Government have noted the suggestion of Mahatma Gandhi that the Provincial Governments should take steps to restore the concessions ; and

(e) whether Government propose to consider the desirability of clarifying the position in consultation with Mahatma Gandhi and the Provincial Governments ?

**The Honourable Sir James Grigg** : (a) Yes, the Government of Madras have asked for the restoration of salt concessions. In doing so, they indicated that they would raise no objection to the concessions

being again withdrawn from any area if experience should show that it was being widely abused in such area.

(b) The proposal has been accepted and orders restoring the concessions are under issue.

(c), (d), and (e). In view of what I have just said perhaps I may assume that the Honourable Member will not object to these questions being treated as not arising.

**Mr. T. S. Avinashilingam Chettiar :** May I know which Governments have applied ?

**The Honourable Sir James Grigg :** Only Madras, to the best of my recollection.

**Prof. N. G. Ranga :** Will Government wait till the Government of Bombay also applies for similar concessions, or will they try to extend these concessions to the places from which they have been withdrawn ?

**The Honourable Sir James Grigg :** I do not quite follow the Honourable Member's suggestion. Is it that I should tell the Government of Madras, contrary to what I have told them, that they had better hold up the concessions until other Governments apply ?

**Prof. N. G. Ranga :** In view of the fact that the Government of India have thought fit to extend these concessions to those places from which they were withdrawn in the Madras Presidency, will Government consider the advisability of extending them to other Presidencies also, particularly Bombay ?

**The Honourable Sir James Grigg :** If other Governments apply and are prepared to give the same assurances and promises as the Madras Government has given, the matter will certainly be considered sympathetically.

#### AMENDMENT OF POSTAL INSURANCE RULES.

189. **\*Mr. K. Santhanam :** Will the Honourable Member for Industries and Labour please state :

(a) whether any action has been taken in pursuance of the reply of Sir Frank Noyce to question No. 444 (e) published in page 1086 of the Assembly Debates, Volume II, No. 4, dated the 26th February, 1937, regarding the amendment of Postal Insurance Rules ; and

(b) if the reply to part (a) be in the affirmative, whether he will place a copy of the amended rules on the table ?

**The Honourable Sir Thomas Stewart :** (a) and (b). The matter has been under examination, and a decision is expected shortly. A statement will be placed on the table in due course.

**Mr. K. Santhanam :** May I know why they are taking such a long time over this simple matter ?

**The Honourable Sir Thomas Stewart :** It has been a matter that has required considerable consideration (Laughter.)

**PROVISIONS OF THE UNBENEFICIAL OCCUPATION OF LANDS BILL INTRODUCED IN THE SOUTH AFRICAN PARLIAMENT.**

190. \***Mr. Mohan Lal Saksena** : (a) Will the Secretary for Education, Health and Lands be pleased to state if Government have received any information regarding the provisions of the Unbeneficial Occupation of Lands Bill shortly introduced in the South African Parliament ?

(b) Have Government received any representations against the said Bill from our countrymen there ? If so, what action has been taken to safeguard their legitimate interests ?

**Mr. M. S. A. Hydari** : (a) and (b). The Bill was passed by the Union Parliament during its last session and has become law. The Act provides that the Minister may expropriate land in unbeneficial occupation provided that he must leave the owner so much land as will support himself and his dependents according to a reasonable standard of living. The Act is of general application and the local Indian Community apprehended possible hardship and danger if it were applied strictly to petty Indian farmers in the Province of Natal. Necessary representations were made to the Minister who gave a written assurance that the 'standard of living' would have reference to the standard which obtains amongst the particular class of people in any specific instance. He has also agreed not to apply the Act to Indians unless at the suggestion of some responsible body having for its care the maintenance or the betterment of that community as a whole. He has also agreed to consult the Agent General for India in any action he may take affecting Indians.

**Mr. B. Das** : Has any case arisen so far against any Indian ?

**Mr. M. S. A. Hydari** : Not that I am aware of.

**SITUATION IN ZANZIBAR.**

191. \***Mr. Mohan Lal Saksena** : (a) Will the Secretary for Education, Health and Lands be pleased to make a statement regarding the situation in Zanzibar ?

(b) Before giving their approval to the amendments in the Clove Growers Association Bill, did Government consult any Indian representatives either in India or in Zanzibar ? If so, who were they ? If not, what justification did Government have in stating that they had the support of Indian public opinion as well as the Standing Emigration Committee ?

(c) Are Government aware of the decision of Indians in Zanzibar to resort to passive resistance ? If so, what will be the attitude of Government in the matter ?

(d) Have Government considered the question of appointing an Agent for Zanzibar ? If so, when is the Agent likely to be appointed ?

**Mr. M. S. A. Hydari** : (a) The Honourable Member's attention is invited to my reply to Mr. Avinashilingam Chettiar's starred question No. 169 on the 25th August, 1937.

(b) The Honourable Member presumably refers to the Zanzibar Clove (Purchase and Exportation) Decree, 1937. Before expressing

their views on its provisions," the Government of India consulted the Standing Committee on Emigration of the Indian Legislature and the Council of the Imperial Indian Citizenship Association, Bombay, and also obtained a copy of a memorandum submitted to the Government of Zanzibar by the Indian National Association, Zanzibar. Government did not make such a statement.

(c) The reply to the first part is in the affirmative. As regards the second part, Government consider the present scheme should be given a fair trial.

(d) Yes, in East Africa, including Zanzibar. I cannot say.

**Mr. S. Satyamurti :** With reference to the answer to part (b) of the question, did Sir Muhammad Zafrullah Khan or Sir Girja Shankar Bajpai, who at the time were in London, inform the Colonial Office that the Government of India had no objection or rather approved of the arrangements which were sought to be made and which are now in force, and if so, did they consult the Government of India ?

**Mr. M. S. A. Hydari :** The conversations which Sir Muhammad Zafrullah Khan and Sir Girja Shankar Bajpai had in London are confidential, and I cannot give an answer one way or another.

**Mr. S. Satyamurti :** I am asking whether, in those conversations, Sir Muhammad Zafrullah Khan and Sir Girja Shankar Bajpai had any authority from the Government of India to give any assurance to the Colonial Office on behalf of the Government of India.

**Mr. M. S. A. Hydari :** I very much regret I cannot answer that.

**Mr. President (The Honourable Sir Abdur Rahim) :** The matter has been fully discussed already.

#### REPRESENTATION FROM INDIANS IN MALAYA REGARDING THE RECOMMENDATIONS OF THE RIGHT HONOURABLE MR. SASTRI.

192. **\*Mr. Mohan Lal Saksena :** Will the Secretary for Education, Health and Lands be pleased to state if Government have received any representation from Indians in Malaya regarding the recommendations of the Right Honourable Mr. Sastri ? If so, what action, if any, do they propose to take thereon ?

**Mr. M. S. A. Hydari :** Yes. Government have examined it and taken it into consideration in their correspondence with the Malay Governments.

**Mr. S. Satyamurti :** In their correspondence, have they brought up the question of wages and the question of housing for Indian labourers, as also the question of sex ratio among the emigrants ?

**Mr. M. S. A. Hydari :** I should like to have notice.

#### ANTI-INDIAN FEELINGS IN CEYLON.

193. **\*Mr. Mohan Lal Saksena :** Will the Secretary for Education, Health and Lands state if Government are aware of the difficulties which Indians are facing in Ceylon because of the anti-Indian feelings there ?

If so, what steps have they taken to safeguard the legitimate interests of Indians there ?

**Mr. M. S. A. Hydari :** Government are aware that Indians in Ceylon are not wholly satisfied with their position. They maintain close touch with all developments affecting Indians through their Agent and take such action as the needs of a particular case require.

**Seth Govind Das :** Have they taken any action in this respect till now ?

**Mr. M. S. A. Hydari :** In respect of what ?

**Seth Govind Das :** In respect of their treatment there, because the Government say they are not satisfied. Have they received any complaints about their dissatisfaction, and have they taken any steps to remove that dissatisfaction ?

**Mr. M. S. A. Hydari :** For example, in regard to the Village Communities Bill we have made representations to the Ceylon Government. That is one item.

**Seth Govind Das :** What has been the result of that representation ?

**Mr. M. S. A. Hydari :** It is under consideration.

**Seth Govind Das :** How long will it take to come to a decision ?

**Mr. M. S. A. Hydari :** I can't say.

#### CONSTITUTION OF CENTRAL BOARDS OR BODIES OF AN ALL-INDIA CHARACTER.

194. \***Mr. O. N. Muthuranga Mudaliar :** Will the Secretary for Education, Health and Lands be pleased to state :

- (a) the number and designation of Central Boards or bodies of an All-India character which has been brought into existence since the report of the first Round Table Conference ;
- (b) whether any more are in contemplation, and if so, what they are and why it is proposed to bring them into existence ;
- (c) whether it is not a fact that the subjects which the existing bodies discuss at their meetings are those which under the new Constitution are the exclusive concern of the Provincial Governments ;
- (d) if so, whether there is not duplication of effort ;
- (e) whether he is aware that there is a widespread feeling that these Central bodies are an unnecessary superfluity ;
- (f) whether before the several bodies were constituted, the Local Governments were consulted, and if so, whether there was unanimity in regard to the proposals of the Government of India, and if not, in what respect was their divergence, and how in that case the various bodies were brought into existence ;
- (g) whether, in view of the fact that the Governments in the Provinces are now responsible to the Legislatures, unlike their

predecessors, he would consult them in regard to these Boards so that they may have an opportunity of reviewing the proposals in the light of the present day Provincial opinion and Provincial needs ; and

(h) the cost to the tax-payer involved in the constitution of the various Boards (to be given separately for each Board) ?

**Mr. M. S. A. Hydari :** (a), (b), (f) and (h). A statement is laid on the table.

(c) and (d). No. While many of the subjects to be discussed will be the concern of the Provinces, subjects concerning **Federal Agencies and Institutes** for research will also be considered. There will in reality be no duplication of effort. The bodies will assist in the formulation of common policies and will serve as clearing houses of ideas and bureaux of information for the Provinces as well as for the Centre.

(e) No.

(g) No.

*Statement regarding Central Boards, etc.*

	Whether local Government were consulted.	Whether local Governments were unanimous or not.	Cost.
<b>I. Central Boards or Bodies in existence.</b>			
(i) The Indian Central Jute Committee.	Yes ..	Yes ..	Not exceeding Rs. 5 lakhs a year.
(ii) The Central Advisory Board of Health.	Yes ..	Yes ..	Rs. 10,000 annually.
(iii) The Medical Council of India.	Yes ..	Yes ..	Rs. 69,000 in 1937-38.
(iv) The Central Advisory Board of Education in India.	Yes ..	Yes ..	Rs. 25,600 in 1937-38.
(v) The Inter-Provincial Board for Anglo-Indian and European Education.	Yes ..	Yes ..	Rs. 30,000 annually. Central Government contribute Rs. 3,473 only.
<b>II. Central Boards, etc. under contemplation.</b>			
The Central Sugar Committee	Under consultation at present.		Rs. 5 lakhs (proposed).

**Mr. T. S. Avinashilingam Chettiar :** May I know the number in (a) ?

**Mr. M. S. A. Hydari :** Five.

**Mr. T. S. Avinashilingam Chettiar :** In (b) ?

**Mr. M. S. A. Hydari :** One.

**Mr. T. S. Avinashilingam Chettiar :** What is that ?

**Mr. M. S. A. Hydari :** The Sugar Committee.

**Mr. B. Das :** Do Government contemplate to have an Inter-Provincial Waterway Board as provided in the Government of India Act ?

**Mr. M. S. A. Hydari :** That does not concern me. It should be addressed, I think, to the Honourable the Industries Member.

REPORT OF MR. S. S. MARKHAM ON THE MUSEUMS IN INDIA.

195. \***Mr. C. N. Muthuranga Mudaliar :** Will the Secretary for Education, Health and Lands be pleased to state with reference to starred question No. 6 asked on the 25th January, 1937 :

- (a) whether any action has been taken regarding the supply of copies of the report of Mr. S. S. Markham on the museums in India to the members of this House ;
- (b) what action has been taken on the various recommendations contained in the report ;
- (c) whether it is proposed to make an appointment of Inspector General to supervise the work in regard to museums ; and
- (d) if so, whether they have taken into account the fact that the Director General of Archaeology can well do the duties which it is proposed to assign to the Inspector General himself ?

**Mr. M. S. A. Hydari :** (a) A copy of the report has been placed in the Library of the House.

(b) The report and its recommendations have been carefully studied and are under consideration. Action has already been taken in regard to Central museums and some, I may inform the Honourable Member, had already been taken in relation to museums under this Department before the Markham report appeared.

The responsibility in relation to the great bulk of museums and specially those criticised in the report lies in the Provinces alone. The Government of India are anxious to give all the help in their power and have asked the Provinces (and also States) whether they would be prepared to send representatives to a museums conference at Delhi in the ensuing cold weather. If they do and the conference is held, it should contribute substantially to fulfilling the desire which the Government of India share with the Honourable Member for raising the standard and efficiency of museums in India.

(c) No.

(d) Does not arise.

**Mr. S. Satyamurti :** Will Government be pleased to supply copies of this Report to all Members of the Assembly ?

**Mr. M. S. A. Hydari :** Sir, it is not a Government publication. Each copy costs Rs. 5. I have had copies placed in the Library of the House. It would be very expensive to supply a copy to each Honourable Member.

**Mr. S. Satyamurti :** Whose publication is it ?

**Mr. M. S. A. Hydari :** It is a publication of the Empire Museums Association. The inquiry was financed by the Carnegie Trust.

**Prof. N. G. Ranga :** Has any action been taken on the many abuses that exist in the administration of the Calcutta Museum, and to which reference is made in that Report ?

**Mr. M. S. A. Hydari :** I have answered that question generally.

**Prof. N. G. Ranga :** I want to know whether any action has been taken on this in regard to the Calcutta Museum ?

**Mr. M. S. A. Hydari :** I have no information.

#### BUDGET ALLOTMENT FOR THE ARCHÆOLOGICAL DEPARTMENT.

196. **\*Mr. O. N. Muthuranga Mudaliar :** Will the Secretary for Education, Health and Lands please state :

- (a) the existing allotment in the budget of the Government of India in respect of the Archæological Department for the year 1937-38 ;
- (b) how it compares with that during the years before the Retrenchment of 1932, say, in 1930 and 1933 ;
- (c) whether he proposes to increase the existing allotment for the Department so as to provide for the increase in the activities of the Department ; and
- (d) whether he is aware of the widespread feeling in the country that the Archæological Department is being starved and is consequently unable to do as much as is desirable ?

**Mr. M. S. A. Hydari :** (a) and (b). A statement is laid on the table.

(c) and (d). The question of increasing the existing grant of the Department with a view to financing certain Archæological schemes is already under consideration.

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*Statement showing the sanctioned Budget Grant for the Archæological Department for the Years 1930-31, 1931-32, 1932-33, 1933-34, and 1937-38.*

Year	1937-38.	1930-31.	1931-32.	1932-33.	1933-34.
Rupees	11,45,000	17,03,000	16,01,000	10,20,000	10,35,000

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**Prof. N. G. Ranga :** What is the answer to part (d)—whether he is aware of the widespread feeling in the country that the Archæological Department is being starved and is consequently unable to do as much as is desirable ?

**Mr. M. S. A. Hydari :** That is a reason why we are considering the question of increasing its grant.



**CREATION OF POSTS OF UNDER SECRETARIES IN THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.**

197. \***Mr. C. N. Muthuranga Mudaliar** : Will the Secretary for Education, Health and Lands please state :

- (a) whether he is aware that under the new constitution the subjects dealt with in his Department are those over which Provincial Governments have complete control, and if so, whether he has considered the question of the reduction of the officers and staff of his Department to meet the reduced work that has resulted ;
- (b) whether it is a fact that it is proposed to appoint two Under Secretaries to the Department shortly, and if so, what is the necessity for them, especially in view of part (a) above ;
- (c) whether it is proposed that the officers referred to above should have had previous experience in the Provincial Secretariats and if not, whether it is expected that they can be of much use in their new sphere of activities ;
- (d) whether it is not a fact that the appointment of Under Secretaries will mean going back on the recommendations of the Retrenchment Committee, 1931, and if so, what is the justification ;
- (e) the period for which the officers now proposed to be recruited will be kept in the Department ;
- (f) whether it is a fact that the creation of posts of Under Secretaries in the Department of Education, Health and Lands is to give opportunity for training to young officers of the Indian Civil Service in administration ;
- (g) whether these posts are not new posts and as such whether they will increase the existing number of Indian Civil Service posts and to that extent the total expenditure on items which are non-votable ; and
- (h) whether Government are aware of the impression that the creation of posts of this kind is not part of a plan to increase the number of Indian Civil Service posts with a view to appointment of an increasing number of Europeans ?

**Mr. M. S. A. Hydari** : (a) It is only some of the subjects with which this Department deals that can be termed Provincial subjects. There has been no reduction in the work of the Department. On the other hand the work shows signs of increasing.

(b) Yes. One Under Secretary has recently joined. The appointments are necessary partly because of increased work in the Department and also as part of a provisional scheme by which there shall, in future, be available a sufficient number of officers serving with the Provinces with experience of administration in the Central Government to provide the superior Secretariat staff of the Central Government.

(c) Previous Secretariat experience is desirable but not essential. The latter half of the question asks for an expression of opinion.

(d) The General Purposes Sub-Committee of the Retrenchment Advisory Committee in their Report in 1931 did not recommend the abolition of any post of Under Secretary in this Department.

(e) Three years.

(f) As will be seen from the reply to part (b) this is one of the objects of these appointments.

(g) The posts are new. It has not been decided whether they should be added to the permanent cadre of the Indian Civil Service.

(h) Assuming that the word "not" in this part of the question is a mistake, the answer is in the negative.

**Seth Govind Das :** The Honourable Member has just said that the work is gradually increasing. May I know, when these departments are practically provincial departments, what is the reason of this increase of work ?

**Mr. M. S. A. Hydari :** More references are received now. As I have said in answer to Mr. Muthuranga Mudaliar's question, there is still a great necessity for the work of co-ordination even in activities which are primarily provincial, and it falls to this Department to act as such co-ordinating authority.

**Mr. S. Satyamurti :** With reference to the answer to part (b) of the question, may I know whether there is any scheme for training a large or a small number of junior civilians in the various departments for secretariat work, in the Central Government, and whether this is part of that scheme ?

**Mr. M. S. A. Hydari :** I have already answered. There is a provisional scheme.

**Mr. S. Satyamurti :** May I know how many appointments this scheme contemplates ?

**Mr. M. S. A. Hydari :** I must ask for notice of that question.

**Mr. S. Satyamurti :** May I know whether these two appointments have been assigned to the Education, Health and Lands Department because they wanted these two extra hands for doing their work, or whether these two hands were found work there as part of the general scheme of training them ?

**Mr. M. S. A. Hydari :** It is for both the reasons, partly for one, and partly for the other.

**Mr. S. Satyamurti :** I want to know particularly whether these two appointments are largely for enabling Secretariat servants to be trained in the various Central Government Departments, or whether it is largely for increase of work ?

**Mr. M. S. A. Hydari :** I am sorry that I cannot allocate its respective weight to each of these reasons.

**Mr. Sri Prakasa :** Is it not a fact that any increase of work falls heavily on the lower staff and that while there is an increase in the higher staff there is no increase in the lower ?

(No reply.)

**Mr. Mohan Lal Saksena :** With reference to the answer to part (d) of the question, May I know what was the number of Under Secretaries at the time the Committee made the recommendation ?

**Mr. M. S. A. Hydari :** One. There was one sanctioned post but it was not filled.

**Mr. Mohan Lal Saksena :** Did the Committee make any recommendation for additional Under Secretaries ?

**Mr. M. S. A. Hydari :** No.

**Mr. T. S. Avinashilingam Chettiar :** What is the number now of Secretaries and Under Secretaries and Joint Secretaries in the Department ?

**Mr. M. S. A. Hydari :** One Secretary, one Joint Secretary, two Deputy Secretaries, two Under Secretaries, and one Assistant Secretary.

#### REVISION OF THE LIST OF VERNACULAR NEWSPAPERS SUPPLIED WITH PUBLICATIONS ON AGRICULTURE.

198. **\*Mr. C. N. Muthuranga Mudaliar :** With reference to the answer to starred question No. 14 asked on the 25th January, 1937, will the Secretary for Education, Health and Lands please state the result of his consideration of the question of revising the list of newspapers to whom the publications referred to in my question should be given free ?

**Mr. M. S. A. Hydari :** The list has been examined in consultation with the Provincial Directors of Agriculture and the Director of Public Information and considerably revised and enlarged.

#### TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN GREAT BRITAIN AND ZANZIBAR.

199. **\*Seth Govind Das :** Will the Secretary for the Department of Education, Health and Lands be pleased to state :

- (a) whether Government are aware of the existence of a treaty of friendship, commerce and navigation between Great Britain and Zanzibar signed on 30th April, 1886, which was though abrogated later, yet its terms were embodied in a treaty signed in 1898 ;
- (b) whether Government's attention has been drawn to Article 4 of that treaty " His Highness the Sultan of Zanzibar binds himself not to allow or recognise the establishment of any kind of monopoly or exclusive privilege of trade within its dominions by any Government, association or individual ", etc., etc. ;
- (c) whether Government of India raised in course of their negotiations with the Zanzibar Government the question why the Clove Growers Association was established in direct contravention of the said treaty and why so much power has been vested in a body the sole object of which is to discriminate against Indians and thereby eliminate them from the clove trade ; and
- (d) if not, why they failed to do this ?

**Mr. M. S. A. Hydari :** (a) The treaty of 1886, referred to by the Honourable Member, was abrogated in 1908. So far as Government are aware its terms were not embodied in any treaty of 1898.

(b) The Honourable Member has correctly quoted the last part of Article IV of the Treaty of 1886.

(c) and (d). As the treaty is no longer in force, Government did not make any reference to it in the course of their negotiations.

#### CLOVE PLANTATION AND PROTECTION OF THE INTERESTS OF INDIANS IN ZANZIBAR.

200. **\*Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Secretary for Education, Health and Lands be pleased to lay on the table all correspondence relating to the legislation and to clove plantation in Zanzibar ?

(b) Will the Secretary for Education, Health and Lands be pleased to state if Government have in contemplation any scheme to protect the interests of Indians in Zanzibar ?

(c) Are Government prepared to take any retaliatory measure against Zanzibar Government for legislating against Indian interests in Zanzibar ?

(d) Are Government prepared to take such steps as would influence the Zanzibar Government to treat Indians as their equals in all respects ?

**Mr. M. S. A. Hydari :** (a) I regret that I am unable to comply with the Honourable Member's request.

(b) and (c). I have nothing to add to the statements made in reply to earlier questions on the subject during this Session, and during the debate on the adjournment motion moved by Mr. S. Satyamurti on the 23rd August last.

(d) I am unable to understand the Honourable Member's question.

**Mr. Mohan Lal Saksena :** Has the attention of the Government been drawn to the reply issued by the Zanzibar Indian Association to the Government communiqué ?

**Mr. M. S. A. Hydari :** Yes.

**Maulana Shaukat Ali :** May I ask in the interest of information if the Honourable Member will let me know if the position of the original inhabitants of Zanzibar is better or worse now ? I have been there to Zanzibar twice and I know it was bad. Is it not a fact that unless this legislation is there to protect them against cleverer people and better organised people from outside they will go to the wall and be ruined ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I think all these arguments were put forward during the debate. I believe the Honourable Member was not present then.

**Maulana Shaukat Ali :** Exactly because I was unfortunately absent I ask this question. I am very much interested in that. I want to know whether it is in the interest of any European exploiter or against other exploiters, cleverer people who wanted to ruin the people of the country of the Zanzibar clove-growers.....

**Mr. President (The Honourable Sir Abdur Rahim) :** The whole question was discussed on the floor of the House the other day and a verdict arrived at.

### UNSTARRED QUESTIONS AND ANSWERS.

#### WOMEN DEBARRED FROM EMPLOYMENT UNDERGROUND IN COAL MINES IN BIHAR AND BENGAL.

**32. Mr. Badri Dutt Pande :** (a) Will the Honourable Member in charge of Industries and Labour state the number of women who have been debarred recently from employment underground in coal mines in the Provinces of Bihar and Bengal ?

(b) Has employment been secured for them elsewhere, or have they been compensated in any other way ?

**The Honourable Sir Thomas Stewart :** (a) I presume that the Honourable Member wishes to know how many women who were working on 30th June last were excluded from work on the 1st July. I regret that there is no official record of the numbers working on those days. But the total average number of women recorded as working underground in the Bihar and Bengal coal mines, in 1936, was 6,602 and the reduction of the permitted percentage on 1st July would possibly have the effect of reducing the number by about half.

(b) No specific employment has been provided for those women who were excluded at a time when there was a substantial demand for agricultural labour. The Government of India have offered to make certain initial grants to the Governments of Bengal and Bihar towards approved schemes designed to enable such women to find alternative employment.

#### ESTABLISHMENT OF A FACTORY BY THE BATA COMPANY IN BATA NAGAR NEAR CALCUTTA.

**33. Dr. Ziauddin Ahmad :** (a) Will the Honourable Member in charge of the Department of Industries and Labour please state whether Government are aware that the Bata Company of Czechoslovakia has established a factory and a village by the name of Bata Nagar near Calcutta ?

(b) Is the Company registered in India ? What is the amount of Indian capital in the Company ?

(c) Do the labourers working in Bata Company get the benefit of Geneva Convention regarding hours of work ?

(d) Is it a fact that labourers are compelled to work for 9½ hours which is against the Geneva Convention ?

(e) Does the Company give special remuneration for overtime work ? If so, what are the rates ?

(f) How many times the Factory Inspectors inspected Bata Nagar Factory ?

**The Honourable Sir Thomas Stewart :** (a) Yes.

(b) Yes. The rupee capital of the Company is Rs. 2,00,000. It is not possible to state how much of this is owned by Indian subscribers.

(c) The Honourable Member is presumably referring to the Washington Hours of Work Convention, 1919. This permits a sixty-hour week in Indian factories and is applicable to this factory. But lower limits than that fixed in the Convention are prescribed by the Factories Act, 1934, which is applicable to this Factory.

(d) I have no particulars of the actual hours but work for 9½ hours on six days of the week would not contravene the Washington Convention if a weekly holiday is granted.

(e) Overtime work beyond certain limits has to be given special remuneration under the Factories Act. I am not in possession of the actual rates.

(f) This is a matter for the Government of Bengal and I regret I cannot furnish information.

#### EMPLOYEES IN THE VETERINARY RESEARCH INSTITUTE, MUKTESAR.

34. **Dr. Ziauddin Ahmad :** (a) Will the Secretary for the Department of Education, Health and Lands be pleased to state the number of employees in the Veterinary Research Institute, Muktesar, drawing salaries of Rs. 50 per mensem or more, and how many of them are Muslims?

(b) Is it a fact that a few posts have been created recently in the Imperial Veterinary Research Institute? If so, do Government propose to recruit them through the Federal Public Service Commission subject to the Resolution of the Government of India about the recruitment of minorities?

**Mr. M. S. A. Hydari :** (a) 119 out of whom 27 are Muslims.

(b) Yes. Recruitment is made through the Federal Public Service Commission only to such posts as belong to either class I or class II. Owing to the technical and special qualifications required for such posts the orders regarding communal representation do not apply to them. Steps are however taken, as far as possible, to ensure sufficient representation of minority communities consistent with the requirements of efficiency. Recruitment to other posts is made by the Director, Imperial Veterinary Research Institute, subject to the general orders regarding communal representation.

#### GRANT TO THE LADY DUFFERIN HOSPITAL, BENARES, AND ADMINISTRATION OF THE LADY DUFFERIN FUND.

35. **Mr. Sri Prakasa :** (a) Will the Secretary for Education, Health and Lands state what the amount of the Lady Dufferin Fund is for hospitals for women and how the same is administered?

(b) How many hospitals are run by this Fund in the United Provinces?

(c) What is the amount of grant given to the Lady Dufferin Hospital at Benares?

(e) Are Government aware that the equipments in the said hospital are not sufficient to meet the needs of women in such an important pilgrim centre as Benares ?

(f) Are Government prepared to consider the desirability of increasing the grants to the said hospital under both the recurring and non-recurring heads ?

**Mr. M. S. A. Hydari :** (a) The fund amounts to Rs. 8,18,100. It is administered by a Council and an Executive Committee. The total recurring income for 1937 is Rs. 41,000, out of which Rs. 28,140 has been allotted for grants-in-aid to Provinces for hospitals.

(b) 27 hospitals and dispensaries in the United Provinces are under the United Provinces Branch of the Countess of Dufferin's Fund, which is independent of the Central Committee.

(c) Rs. 12,000 per annum as shown below :

	Rs.
(i) Grant from the Central Countess of Dufferin's Fund .. .. .	1,000
(ii) Pay of a Senior Officer of the Women's Medical Service .. .. .	6,000
(iii) Pay of an officer of the Training Reserve of the Women's Medical Service .. .. .	2,000
(iv) Pay of a Sub-Assistant Surgeon and nursing staff paid by the United Provinces Branch of the Dufferin Fund .. .. .	3,000
	<hr/>
	12,000

(d) The subscriptions and donations received during 1936 amounted Rs. 1,981. The Municipal Board gives a grant of Rs. 2,500 per annum and the District Board Rs. 840.

(e) The authorities of the Countess of Dufferin's Fund are aware of the needs of the Hospital. The Silver Jubilee Fund (Central and Provincial) have recently donated Rs. 19,000 for a new nurses's hostel.

(f) No. The matter is one for the consideration of the authorities of the Countess of Dufferin's Fund and the Provincial Government.

## MOTIONS FOR ADJOURNMENT.

### MILITARY AID TO BURMA.

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order. I have received notice of a motion for the adjournment of this House on Mr. Avinashilingam Chettiar to the effect that he wants to discuss

“a definite matter of urgent public importance, namely, the agreement of the Government of India with Burma to give military aid in all emergencies without any compensating contribution from Burma towards India's military expenditure”.

The motion has been disallowed by His Excellency the Governor General on the ground that the motion cannot be moved without detriment to the public interest.

#### ANDAMANS HUNGER-STRIKE.

**Mr. President** (The Honourable Sir Abdur Rahim) : I have received notice of two motions for the adjournment of this House with reference to the Andamans hunger strike from Pandit Lakshmi Kanta Maitra. I should like to know if he wants to move any of these motions, especially in view of the fact that the recent communiqué published this morning by the Government of India shows that the hunger strikers have stopped the strike except seven persons.

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhammadan Rural) : May I put in a word or two about these motions ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I do not want any arguments. If the Honourable Member wants to move any of them, then I shall give my decision.

**Pandit Lakshmi Kanta Maitra** : In view of the report that has appeared in today's papers that the men on hunger strike have given up their hunger strike, I do not propose to create any heat or embarrassment to the Government. I hope and I have reasons to believe that this matter is engaging the consideration of the Governments concerned. I do not move the motion in the hope that Government will do something tangible and that without delay on this matter.

#### COMMITTEE ON PETITIONS.

**Mr. President** (The Honourable Sir Abdur Rahim) : I have to announce that under standing order 80 (1) of the Legislative Assembly Standing Orders the following Honourable Members will form the Committee on Petitions, namely :

1. Sir Leslie Hudson.
2. Mr. M. S. Aney.
3. Mr. M. Ghiasuddin.
4. Mr. Mathuradas Vissanji.

According to the provision of the same Standing Order, the Deputy President will be the Chairman of the Committee.

#### AGREEMENTS BETWEEN THE RESERVE BANK OF INDIA AND THE GOVERNMENTS OF BIHAR, ORISSA AND THE CENTRAL PROVINCES AND BERAR, AND THE SUPPLEMENTAL AGREEMENT WITH THE IMPERIAL BANK OF INDIA.

**The Honourable Sir James Grigg** (Finance Member) : Sir, I lay on the table :

- (i) a copy each of the Agreements between the Reserve Bank of India and the Governments of Bihar, Orissa and the Central Provinces and Berar ; and



- (ii) a copy of the Supplemental Agreement between the Reserve Bank of India and the Imperial Bank of India.

*Agreement between the Governor of Bihar and the Reserve Bank of India.*

AN AGREEMENT made this thirtieth day of June, 1937, BETWEEN THE GOVERNOR OF BIHAR of the one part and THE RESERVE BANK OF INDIA (hereinafter called "the Bank") of the other part WHEREAS the Bank was constituted and incorporated and is regulated by the Reserve Bank of India Act, 1934 (being Act No. II of 1934) (hereinafter called "the Act") as adapted and modified pursuant to the Authority contained in Section 293 of the Government of India Act, 1935 by an Order of His Majesty in Council dated the eighteenth day of March 1937 cited as the India and Burma (Burma Monetary Arrangements) Order, 1937 with and subject to the various powers, provisions and restrictions in and by the Act set forth and it was thereby *inter alia* particularly provided as follows, *vis.* :

- (1) by section 20 of the Act that the Bank should undertake to accept monies for account of Provincial Governments and to make payments up to the amount standing to the credit of their accounts and to carry out their exchange, remittance and other banking operations including the management of the public debt, and
- (2) by section 21 (1) of the Act that Provincial Governments should entrust the Bank on such conditions as might be agreed upon with all their money, remittance, exchange and banking transactions in India and, in particular, should deposit free of interest all their cash balances with the Bank provided that nothing in that sub-section should prevent Provincial Governments from carrying on money transactions at places where the Bank has no branches or agencies and that provincial Governments might hold at such places such balances as they may require and
- (3) by section 21 (2) of the Act that provincial Governments should entrust the Bank, on such conditions as might be agreed upon, with the management of the public debt and with the issue of any new loans.

NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED by and between the said parties hereto as follows, that is to say :

1. This agreement shall be deemed to have come into force on the first day of April 1937.

2. The general banking business of the Government of Bihar (hereinafter referred to as "the Government") including the payment, receipt, collection and remittance of money on behalf of the Government shall be carried on and transacted by the Bank in accordance with and subject to the provisions of this agreement and of the Act and with and to such orders and directions as may from time to time be given to the Bank by the Government through any Government officer or officers authorised by the Government in that behalf and at any of the offices, branches or agencies of the Bank for the time being in existence as may from time to time be so directed and for this purpose such accounts shall be kept in the books of the Bank and at such offices, branches or agencies of the Bank as shall be necessary or convenient or as the Government shall from time to time direct in the manner aforesaid.

3. The Government shall employ the Bank as the sole Banker in India of the Government who shall deposit or cause to be deposited with the Bank or allow the Bank to receive and hold as banker the whole of its cash balances at any places at which for the time being the Bank shall have an office, branch or agency and the Bank shall subject to such orders as may from time to time be given by the Government in the manner aforesaid receive and hold for the Government all such monies as may be or become payable to the Government or on its account and the Bank shall transact at its offices, branches and agencies for the time being existing respectively all such business for the Government regarding the receipt, collection, payment and remittance of money and other matters, as is usually transacted by bankers for their customers. The Bank shall make the said monies at the said offices, branches and agencies available for transfer to such places and at such times as the Government may direct. No interest shall be payable to the Government on any of the monies for the time being held by the Bank.

4. The management of the rupee public debt of the Government and the issue of new rupee loans by the Government and the performance of all the duties relating thereto respectively including the collection and payment of interest and principal and the consolidation, division, conversion, cancellation and renewal of securities of the Government and the keeping of all registers, books and accounts and the conduct of all correspondence incidental thereto shall be transacted by the Bank at its offices in Bombay, Calcutta and Madras and at any of its offices, branches or agencies at which respectively the administration of any portion or portions of the public debt of the Government is for the time being conducted or interest thereon is for the time being payable and the Bank shall also keep and maintain such registers, books and accounts in respect of the said public debt as the Government may from time to time direct and shall audit all payments of such interest and act generally as agents in India for the Government in the management of the said public debt and shall conduct such agency subject to such orders and directions with regard to the general management thereof as may from time to time be given to the Bank by the Government.

5. The Bank shall not be entitled to any remuneration for the conduct of the ordinary banking business of the Government other than such advantage as may accrue to it from the holding of the Government cash balances free of obligation to pay interest thereon, and such balances shall be maintained at an amount not below such minimum as may be agreed upon between the Government and the Bank from time to time.

Provided that if the Government wishes to remit funds outside the area within its jurisdiction except as otherwise provided for in this agreement the Bank shall be entitled to make a charge for such remittances at rates not exceeding those which the Bank charges to Banks referred to as "scheduled banks" in Section 42 of the Act, subject to a minimum charge of four annas for each remittance.

6. The Bank shall make ways and means advances to the Government if so required at such rate of interest not exceeding bank rate as may be fixed by the Bank from time to time, provided that the total of such advances outstanding at any one time shall not exceed the amount of the minimum balance prescribed under Clause 5 and any subsidiary agreement provided under the Clause and provided further that the advances outstanding shall be fully paid off at intervals not exceeding three months.

7. The Government shall employ the Bank as its sole agent for investments by Government either of Government funds or of funds managed by the Government and the Bank shall be entitled to charge commission for sales (but not for conversions) at the rate of 1½ per cent. in addition to any further charges which the Bank may have to pay by way of brokerage, etc. The Bank shall collect interest and the maturity values of such investments on behalf of the Government without charge.

8. As remuneration to the Bank for the management of the public debt as aforesaid the Bank shall be entitled to charge to the Government half-yearly a commission at the rate of Rs. 2,000 per crore per annum on the amount of the public debt as aforesaid at the close of the half-year for which the charge is made. In calculating this charge the following amount shall be excluded from the amount of public debt, viz. :

- (a) The amounts of loans discharged outstanding after one year from the date of a notice of discharge.
- (b) The amount of stock certificates for Rs. 50,000 and upwards held by the Government or by any officer or officers of the Government authorised in that behalf, provided that such amount exceeds one crore.

And in addition to the charge of Rs. 2,000 per crore per annum the Bank shall be entitled to charge to the Government a fixed sum of Rs. 2,000 a year on account of the stock certificates referred to in head (b) of this Clause and the Bank shall be also entitled to charge the public (but not the Government) all such fees and charges as are now or may hereafter from time to time be prescribed by the Governor-General under the powers conferred upon him by the Indian Securities Act, 1920 (Act No. X of 1920), for duplicate securities and for the renewal, consolidation, division or otherwise of all Government Securities which the Bank issues.

Provided that loans not directly issued by the Government but issued under the guarantee of the Government shall not be included in the calculation for the purpose of this Clause but shall be a matter for separate arrangement if the management of such loans is entrusted to the Bank.

9. The Bank shall maintain currency chests of its issue Department at such places within the Province of Bihar as the Government may, with the previous sanction of the Central Government, prescribe and the Government shall provide sufficient accommodation for such chests as may be required for the deposit of notes or coin and shall be responsible to the Bank for the safe custody of the said chests, notes and coin. The Bank shall keep the said chests, supplied with sufficient notes and coin to provide currency for the transactions of the Government and reasonable remittance facilities to the public at the said places. The Government shall supply the Bank with such information and returns as the Bank may from time to time require as to the composition of the balances in the said chests and the amount and nature of the transfers to and from the said chests. The Bank shall have access to the said chests at all reasonable times for the purpose of inspecting and checking the contents. The Government shall be responsible to the Bank for the examination and correctness of coin or notes at the time of deposit in or withdrawal from the said chests.

10. The Bank shall not be at liberty to close any of its offices or branches except on Sundays, New Year's Day, Christmas Day, Good Friday and on any other day declared to be a public holiday by any notification published in pursuance of the Negotiable Instruments Act (Act XXVI of 1881) subject nevertheless and notwithstanding the provisions of that Act to any special orders or directions which may be issued by the Government, and the Bank shall be responsible that no one of its agencies doing Government business for the time being existing shall be closed except on Sundays and on public holidays authorised by the Government within whose jurisdiction such agencies may be respectively situated.

11. The responsibility for all loss or damage to the Government which may result from any act or negligence or omission of the Bank or its agents in conducting the business of the public debt aforesaid or the payment of interest or discharge value thereon or the renewal, conversion, consolidation, subdivision or cancellation of any Government securities shall rest with and be borne by the Bank provided however that it shall not be incumbent on the Bank to verify signatures and endorsements on Government Securities which *prima facie* appear to be in order and in the acceptance of which the Bank shall not be guilty of any negligence and in such cases no liability shall be incurred by the Bank in respect thereto PROVIDED ALSO that in regard to the ordinary banking business at the offices, branches and agencies of the Bank of receiving and realising money and securities for money on account of the Government and paying cheques, orders, draft bills and other documents whether negotiable or not in the Bank's capacity of bankers for the Government and whether such business be done by the Bank or by agencies on its behalf the responsibility to the Government shall be that of the Bank and such responsibility shall be that of a banker to an ordinary customer.

12. The Bank shall remit on account of the Government between India and London such amounts as may be required by it from time to time at the market rate of the day for telegraphic transfers, subject to the proviso that if a large transfer has to be effected in connection with the flotation or repayment of a sterling loan or analogous operation, and if it is considered by either party to be inappropriate to apply the rate of a single day, an average rate based on a longer period may be fixed by agreement between the two parties.

13. This agreement may be determined by either party giving to the other party one year's notice in writing expiring on the 31st day of March in any year, such notice if given by or on behalf of the Government to be addressed to the Governor of the Bank and to be served by leaving the same with the Head Office of the Bank or addressing the same to him at the Head Office of the Bank by registered post and if given by the Bank to be served by leaving the same with or addressing the same by registered post to the Secretary to the Government in the Finance Department and immediately upon the expiration of such notice this agreement shall absolutely cease and determine save as to rights or liabilities acquired or incurred prior to such termination.

14. In the event of any dispute arising as to the terms and conditions of this agreement, or as to the rights or obligations of the parties hereto such dispute or

difference of opinion shall, in the event of the parties hereto failing to reach an agreement, be referred to the Governor-General whose decision shall be final and binding as between the parties hereto.

15. Nothing in this agreement shall operate to affect in any way the obligations imposed either on the Government or on the Bank by or under the Act or any subsequent amendment or amendments of the Act.

16. The Bank shall be entitled to perform all or any of the matters contained in this agreement through such agency or agencies as may be prescribed by the Act or any amendment thereof or as may be approved by the Government.

IN WITNESS WHEREOF Henry Carlos Prior, Secretary to the Government of Bihar in the Finance Department by the order and direction of the Governor of Bihar has hereunto set his hand and the common seal of the Reserve Bank of India pursuant to a Resolution of its Central Board has been hereunto affixed in the presence of its subscribing officials the day and year first above written.

Signed by the said Henry Carlos Prior, Secretary to the Government of Bihar in the Finance Department for and on behalf of the Governor of Bihar in the presence of C. S. Jha, Under-Secretary to the Government of Bihar, Finance Department, Patna.

(Sd.) H. C. PRIOR,  
*Secretary to the Government  
of Bihar, Finance  
Department.*

(Sd.) C. S. JHA,  
*Under-Secretary to the Government of  
Bihar, Finance Department, Patna.*



The Common Seal of the Reserve Bank of India was affixed hereto in the presence of Sultan Meherally Ohinoy and Devidas Madhowji Thakersey two of its Directors and Sir James Braid Taylor, Kt., C.I.E., its Deputy Governor.

(Sd.) SULTAN OHINOY,  
(Sd.) DEVIDAS MADHOWJI  
THAKERSEY,  
*Directors.*  
(Sd.) J. B. TAYLOR,  
*Deputy Governor.*

*Agreement between the Governor of Orissa and the Reserve Bank of India.*

AN AGREEMENT made this sixteenth day of June 1937 BETWEEN THE GOVERNOR OF THE PROVINCE OF ORISSA of the one part and THE RESERVE BANK OF INDIA (hereinafter called "the Bank,") of the other part WHEREAS the Bank was constituted and incorporated and is regulated by the Reserve Bank of India Act, 1934 (being Act No. II of 1934) (hereinafter called "the Act") as adapted and modified pursuant to the Authority contained in Section 293 of the Government of India Act 1935 by an Order of His Majesty in Council dated the eighteenth day of March 1937 cited as the India and Burma (Burma Monetary Arrangements) Order 1937 with and subject to the various powers, provisions and restrictions in and by the Act set forth and it was thereby *inter alia* particularly provided as follows, *vis.*,

- (1) by section 20 of the Act that the Bank should undertake to accept monies for account of Provincial Governments and to make payments up to the amount standing to the credit of their accounts and to carry out their exchange, remittance and other banking operations including the management of the public debt and

(2) by section 21 (1) of the Act that Provincial Governments should entrust the Bank on such conditions as might be agreed upon with all their money, remittance, exchange and banking transactions in India, and, in particular, should deposit free of interest all their cash balances with the Bank provided that nothing in that sub-section should prevent Provincial Governments from carrying on money transactions at places where the Bank has no branches or agencies and that provincial Governments might hold at such places such balances as they may require and

(3) by section 21 (2) of the Act that provincial Governments should entrust the Bank, on such conditions as might be agreed upon, with the management of the public debt and with the issue of any new loans.

NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED by and between the said parties hereto as follows, that is to say :

1. This agreement shall be deemed to have come into force on the first day of April 1937.

2. The general banking business of the Government of Orissa (hereinafter referred to as "the Government") including the payment, receipt, collection and remittance of money on behalf of the Government shall be carried on and transacted by the Bank in accordance with and subject to the provisions of this agreement and of the Act and in accordance with and subject to such orders and directions as may from time to time be given to the Bank by the Government through any Government officer or officers authorised by the Government in that behalf and at any of the offices, branches or agencies of the Bank for the time being in existence as may from time to time be so directed and for this purpose such accounts shall be kept in the books of the Bank and at such offices, branches or agencies of the Bank as shall be necessary or convenient or as the Government shall from time to time direct in the manner aforesaid.

3. The Government shall employ the Bank as the sole Banker in India of the Government who shall deposit or cause to be deposited with the Bank or allow the Bank to receive and hold as banker the whole of its cash balances at any places at which for the time being the Bank shall have an office, branch or agency and the Bank shall subject to such orders as may from time to time be given by the Government in the manner aforesaid receive and hold for the Government all such monies as may be or become payable to the Government or on its account and the Bank shall transact at its offices, branches and agencies for the time being existing respectively all such business for the Government regarding the receipt, collection, payment and remittance of money and other matters, as is usually transacted by bankers for their customers. The Bank shall make the said monies at the said offices, branches and agencies available for transfer to such places and at such times as the Government may direct. No interest shall be payable to the Government on any of the monies for the time being held by the Bank.

4. The management of the rupee public debt of the Government and the issue of new rupee loans by the Government and the performance of all the duties relating thereto respectively including the collection and payment of interest and principal and the consolidation, division, conversion, cancellation and renewal of securities of the Government and the keeping of all registers, books and accounts and the conduct of all correspondence incidental thereto shall be transacted by the Bank at its offices in Bombay, Calcutta and Madras and at any of its offices, branches or agencies at which respectively the administration of any portion or portions of the public debt of the Government is for the time being conducted or interest thereon is for the time being payable and the Bank shall also keep and maintain such registers, books and accounts in respect of the said public debt as the Government may from time to time direct and shall audit all payments of such interest and act generally as agents in India for the Government in the management of the said public debt and shall conduct such agency subject to such orders and directions with regard to the general management thereof as may from time to time be given to the Bank by the Government.

5. The Bank shall not be entitled to any remuneration for the conduct of the ordinary banking business of the Government other than such advantage as may

accrue to it from the holding of the Government cash balances free of obligation to pay interest thereon, and such balances shall be maintained at an amount not below such minimum as may be agreed upon between the Government and the Bank from time to time.

Provided that if the Government wishes to remit funds outside the area within its jurisdiction except as otherwise provided for in this agreement the Bank shall be entitled to make a charge for such remittances at rates not exceeding those which the Bank charges to Banks referred to as "scheduled banks" in Section 42 of the Act subject to a minimum charge of four annas for each remittance.

6. The Bank shall make ways and means advances to the Government if so required at such rate of interest not exceeding bank rate as may be fixed by the Bank from time to time, provided that the total of such advances outstanding at any one time shall not exceed the amount of the minimum balance prescribed under Clause 5 and any subsidiary agreement provided under the Clause and provided further that the advances outstanding shall be fully paid off at intervals not exceeding three months.

7. The Government shall employ the Bank as its sole agent for investments by Government either of Government funds or of funds managed by the Government and the Bank shall be entitled to charge commission for sales (but not for conversion) at the rate of 1½ per cent. in addition to any further charges which the Bank may have to pay by way of brokerage, etc. The Bank shall collect interest and the maturity values of such investments on behalf of the Government without charge.

8. As remuneration to the Bank for the management of the public debt as aforesaid the Bank shall be entitled to charge to the Government half-yearly a commission at the rate of Rs. 2,000 per crore per annum on the amount of the public debt as aforesaid at the close of the half-year for which the charge is made. In calculating this charge the following amount shall be excluded from the amount of public debt, *viz.* :

(a) The amounts of loans discharged outstanding after one year from the date of a notice of discharge.

(b) The amount of stock certificates for Rs. 50,000 and upwards held by the Government or by any officer or officers of the Government authorised in that behalf, provided that such amount exceeds one crore.

And in addition to the charge of Rs. 2,000 per crore per annum the Bank shall be entitled to charge to the Government a fixed sum of Rs. 2,000 a year on account of the stock certificates referred to in head (b) of this Clause and the Bank shall be also entitled to charge the public (but not the Government) all such fees and charges as are now or may hereafter from time to time be prescribed by the Governor-General under the powers conferred upon him by the Indian Securities Act 1920 (Act No. X of 1920) for duplicate securities and for the renewal, consolidation, division or otherwise of all Government Securities which the Bank issues.

Provided that loans not directly issued by the Government but issued under the guarantee of the Government shall not be included in the calculation for the purpose of this Clause but shall be a matter for separate arrangement if the management of such loans is entrusted to the Bank.

9. The Bank shall maintain currency chests of its issue Department at such places within the ORISSA PROVINCE as the Government may, with the previous sanction of the Central Government prescribe and the Government shall provide sufficient accommodation for such chests as may be required for the deposit of notes or coin and shall be responsible to the Bank for the safe custody of the said chests, notes and coin. The Bank shall keep the said chests supplied with sufficient notes and coin to provide currency for the transactions of the Government and reasonable remittance facilities to the public at the said places. The Government

shall supply the Bank with such information and returns as the Bank may from time to time require as to the composition of the balances in the said chests and the amount and nature of the transfers to and from the said chests. The Bank shall have access to the said chests at all reasonable times for the purpose of inspecting and checking the contents. The Government shall be responsible to the Bank for the examination and correctness of coin or notes at the time of deposit in or withdrawal from the said chests.

10. The Bank shall not be at liberty to close any of its offices or branches except on Sundays, New Year's Day, Christmas Day, Good Friday and on any other day declared to be a public holiday by any notification published in pursuance of the Negotiable Instruments Act (Act XXVI of 1881) subject nevertheless and notwithstanding the provisions of that Act to any special orders or directions which may be issued by the Government and the Bank shall be responsible that no one of its agencies doing Government business for the time being existing shall be closed except on Sundays and on public holidays authorised within the area within which such agencies may be respectively situated.

11. The responsibility for all loss or damage to the Government which may result from any act or negligence or omission of the Bank or its agents in conducting the business of the public debt aforesaid or the payment of interest or discharge value thereon or the renewal, conversion, consolidation, subdivision or cancellation of any Government securities shall rest with and be borne by the Bank provided however that it shall not be incumbent on the Bank to verify signatures and endorsements on Government Securities which *prima facie* appear to be in order and in the acceptance of which the Bank shall not be guilty of any negligence and in such cases no liability shall be incurred by the Bank in respect thereto PROVIDED ALSO that in regard to the ordinary banking business at the offices, branches and agencies of the Bank of receiving and realising money and securities for money on account of the Government and paying cheques, orders, draft bills and other documents whether negotiable or not in the Bank's capacity of bankers for the Government and whether such business be done by the Bank or by agencies on its behalf the responsibility to the Government shall be that of the Bank and such responsibility shall be that of a banker to an ordinary customer.

12. The Bank shall remit on account of the Government between India and London such amounts as may be required by it from time to time at the market rate of the day for telegraphic transfers, subject to the proviso that if a large transfer has to be effected in connection with the flotation or repayment of a sterling loan or analogous operation, and if it is considered by either party to be inappropriate to apply the rate of a single day, an average rate based on a longer period may be fixed by agreement between the two parties.

13. This agreement may be determined by either party giving to the other party one year's notice in writing expiring on the 31st day of March in any year, such notice if given by or on behalf of the Government to be addressed to the Governor of the Bank and to be served by leaving the same at the Head Office of the Bank or addressing the same to him at the Head Office of the Bank by registered post and if given by the Bank to be served by leaving the same with or addressing the same by registered post to the Secretary to the Government in the Finance Department and immediately upon the expiration of such notice this agreement shall absolutely cease and determine save as to rights or liabilities acquired or incurred prior to such termination.

14. In the event of any dispute arising as to the terms and conditions of this agreement, or as to the rights or obligations of the parties hereto such dispute or difference of opinion shall, in the event of the parties hereto failing to reach an agreement, be referred to the Governor General whose decision shall be final and binding as between the parties hereto.

15. Nothing in this agreement shall operate to affect in any way the obligations imposed either on the Government or on the Bank by or under the Act or any subsequent amendment or amendments of the Act.

16. The Bank shall be entitled to perform all or any of the matters contained in this agreement through such agency or agencies as may be prescribed by the Act or any amendment thereof or as may be approved by the Government.


IN WITNESS WHEREOF Secretary to the Government of Orissa in the Finance Department by the Order and direction of the Governor of Orissa has hereunto set his hand and the common seal of the Reserve Bank of India pursuant to a Resolution of its Central Board has been hereunto affixed in the presence of its subscribing officials the day and year first above written.

Signed by the said P. T. Mansfield,  
Secretary to the Government of Orissa in the  
Finance Department for and on behalf of the  
Governor of Orissa in the presence of

(Sd.) P. T. MANSFIELD,  
*Secretary to the Government  
of Orissa, Finance  
Department.*

(Sd.) U. S. NARAYAN RAO.

The Common Seal of the Reserve Bank of  
India was affixed hereto in the presence of  
Devidas Madhowji Thakersey and Sultan  
Meherally Chinoy, two of its Directors and Sir  
James Braid Taylor, Kt., C.I.E., its Deputy  
Governor.



Common Seal  
of the  
Reserve Bank  
of India.

(Sd.) SULTAN CHINYOY,  
(Sd.) DEVIDAS MADHOWJI  
THAKERSEY,  
*Directors.*  
(Sd.) J. B. TAYLOR,  
*Deputy Governor.*

*Agreement between the Governor of the Central Provinces and Berar and the Reserve Bank of India.*

AN AGREEMENT made this thirtieth day of June 1937 BETWEEN THE GOVERNOR OF THE CENTRAL PROVINCES AND BERAR of the one part and THE RESERVE BANK OF INDIA (hereinafter called "the Bank") of the other part WHEREAS the Bank was constituted and incorporated and is regulated by the Reserve Bank of India Act, 1934 (being Act No. II of 1934) (hereinafter called "the Act"), as adapted and modified pursuant to the Authority contained in section 293 of the Government of India Act, 1935, by an Order of His Majesty in Council, dated the eighteenth day of March 1937, cited as the India and Burma (Burma Monetary Arrangements) Order, 1937, with and subject to the various powers, provisions and restrictions in and by the Act set forth and it was thereby *inter alia* particularly provided as follows, viz. :

- (1) by section 20 of the Act that the Bank should undertake to accept monies for account of Provincial Governments and to make payments up to the amount standing to the credit of their accounts and to carry out their exchange, remittance and other banking operations including the management of the public debt, and
- (2) by section 21 (1) of the Act that Provincial Governments should entrust the Bank on such conditions as might be agreed upon with all their money, remittance, exchange and banking transactions in India and, in particular, should deposit free of interest all their cash balances with the Bank provided that nothing in that sub-section should prevent



Provincial Governments from carrying on money transactions at places where the Bank has no branches or agencies and that provincial Governments might hold at such places such balances as they may require, and

- (3) by section 21 (2) of the Act that provincial Governments should entrust the Bank, on such conditions as might be agreed upon, with the management of the public debt and with the issue of any new loans.

NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED by and between the said parties hereto as follows, that is to say :

1. This agreement shall be deemed to have come into force on the first day of April 1937.

2. The general banking business of the Government of the Central Provinces and Berar (hereinafter referred to as "the Government") including the payment, receipt, collection and remittance of money on behalf of the Government shall be carried on and transacted by the Bank in accordance with and subject to the provisions of this agreement and of the Act and with and to such orders and directions as may from time to time be given to the Bank by the Government through any Government officer or officers authorised by the Government in that behalf and at any of the offices, branches or agencies of the Bank for the time being in existence as may from time to time be so directed and for this purpose such accounts shall be kept in the books of the Bank and at such offices, branches or agencies of the Bank as shall be necessary or convenient or as the Government shall from time to time direct in the manner aforesaid.

3. The Government shall employ the Bank as the sole Banker in India of the Government who shall deposit or cause to be deposited with the Bank or allow the Bank to receive and hold as banker the whole of its cash balances at any places at which for the time being the Bank shall have an office, branch or agency and the Bank shall subject to such orders as may from time to time be given by the Government in the manner aforesaid receive and hold for the Government all such monies as may be or become payable to the Government or on its account and the Bank shall transact at its offices, branches and agencies for the time being existing respectively all such business for the Government regarding the receipt, collection, payment and remittance of money and other matters, as is usually transacted by bankers for their customers. The Bank shall make the said monies at the said offices, branches and agencies available for transfer to such places and at such times as the Government may direct. No interest shall be payable to the Government on any of the monies for the time being held by the Bank.

4. The management of the rupee public debt of the Government and the issue of new rupee loans by the Government and the performance of all the duties relating thereto respectively including the collection and payment of interest and principal and the consolidation, division, conversion, cancellation and renewal of securities of the Government and the keeping of all registers, books and accounts and the conduct of all correspondence incidental thereto shall be transacted by the Bank at its offices in Bombay, Calcutta and Madras and at any of its offices, branches or agencies at which respectively the administration of any portion or portions of the public debt of the Government is for the time being conducted or interest thereon is for the time being payable and the Bank shall also keep and maintain such registers, books and accounts in respect of the said public debt as the Government may from time to time direct and shall audit all payments of such interest and act generally as agents in India for the Government in the management of the said public debt and shall conduct such agency subject to such orders and directions with regard to the general management thereof as may from time to time be given to the Bank by the Government.

5. The Bank shall not be entitled to any remuneration for the conduct of the ordinary banking business of the Government other than such advantage as may accrue to it from the holding of the Government cash balances free of obligation to pay interest thereon; and such balances shall be maintained at an amount not below such minimum as may be agreed upon between the Government and the Bank from time to time.

Provided that if the Government wishes to remit funds outside the area within its jurisdiction except as otherwise provided for in this agreement the Bank shall be entitled to make a charge for such remittances at rates not exceeding those which the Bank charges to Banks referred to as "scheduled banks" in Section 42 of the Act, subject to a minimum charge of four annas for each remittance.

6. The Bank shall make ways and means advances to the Government if so required at such rate of interest not exceeding bank rate as may be fixed by the Bank from time to time, provided that the total of such advances outstanding at any one time shall not exceed the amount of the minimum balance prescribed under Clause 5 and any subsidiary agreement provided under the Clause, and provided further that the advances outstanding shall be fully paid off at intervals not exceeding three months.

7. The Government shall employ the Bank as its sole agent for investments by Government either of Government funds or of funds managed by the Government and the Bank shall be entitled to charge commission for sales (but not for conversion) at the rate of 1/16 per cent. in addition to any further charges which the Bank may have to pay by way of brokerage, etc. The Bank shall collect interest and the maturity values of such investments on behalf of the Government without charge.

8. As remuneration to the Bank for the management of the public debt as aforesaid the Bank shall be entitled to charge to the Government half-yearly a commission at the rate of Rs. 2,000 per crore per annum on the amount of the public debt as aforesaid at the close of the half-year for which the charge is made. In calculating this charge the following amount shall be excluded from the amount of public debt, *viz.* :

- (a) The amounts of loans discharged outstanding after one year from the date of a notice of discharge.
- (b) The amount of stock certificates for Rs. 50,000 and upwards held by the Government or by any officer or officers of the Government authorised in that behalf, provided that such amount exceeds one crore.

And in addition to the charge of Rs. 2,000 per crore per annum the Bank shall be entitled to charge to the Government a fixed sum of Rs. 2,000 a year on account of the stock certificates referred to in head (b) of this Clause and the Bank shall be also entitled to charge the public (but not the Government) all such fees and charges as are now or may hereafter from time to time be prescribed by the Government under the powers conferred upon it by the Indian Securities Act, 1920 (X of 1920), as adapted and modified by the Government of India (Adaptation of Indian Laws) Order, 1937, for duplicate securities and for the renewal, consolidation, division or otherwise of all Government Securities which the Bank issues :

Provided that loans not directly issued by the Government but issued under the guarantee of the Government shall not be included in the calculation for the purpose of this Clause but shall be a matter for separate arrangement if the management of such loans is entrusted to the Bank.

9. The Bank shall maintain currency chests of its issue department at such places within the Central Provinces and Berar as the Government may, with the previous sanction of the Central Government, prescribe and the Government shall provide sufficient accommodation for such chests as may be required for the deposit of notes or coin and shall be responsible to the Bank for the safe custody of the said chests, notes and coin. The Bank shall keep the said chests supplied with sufficient notes and coin to provide currency for the transactions of the Government and reasonable remittance facilities to the public at the said places. The Government shall supply the Bank with such information and returns as the Bank may from time to time require as to the composition of the balances in the said chests and the amount and nature of the transfers to and from the said chests. The Bank shall have access to the said chests at all reasonable times for the purpose of inspecting and checking the contents. The Government shall be responsible to the Bank for

the examination and correctness of coin or notes at the time of deposit in or withdrawal from the said chests.

10. The Bank shall not be at liberty to close any of its offices or branches except on Sundays, New Year's Day, Christmas Day, Good Friday and on any other day declared to be a public holiday by any notification published in pursuance of the Negotiable Instruments Act, 1881 (XXVI of 1881), subject nevertheless and notwithstanding the provisions of that Act to any special orders or directions which may be issued by the Government and the Bank shall be responsible that no one of its agencies doing Government business for the time being existing shall be closed except on Sundays and on public holidays authorised by the Government within whose jurisdiction such agencies may be respectively situated.

11. The responsibility for all loss or damage to the Government which may result from any act or negligence or omission of the Bank or its agents in conducting the business of the public debt aforesaid or the payment of interest or discharge value thereon or the renewal, conversion, consolidation, subdivision or cancellation of any Government securities shall rest with and be borne by the Bank, provided however that it shall not be incumbent on the Bank to verify signatures and endorsements on Government Securities which *prima facie* appear to be in order and in the acceptance of which the Bank shall not be guilty of any negligence and in such cases no liability shall be incurred by the Bank in respect thereto PROVIDED ALSO that in regard to the ordinary banking business at the offices, branches and agencies of the Bank of receiving and realising money and securities for money on account of the Government and paying cheques, orders, draft bills and other documents whether negotiable or not in the Bank's capacity of bankers for the Government and whether such business be done by the Bank or by agencies on its behalf the responsibility to the Government shall be that of the Bank and such responsibility shall be that of a banker to an ordinary customer.

12. The Bank shall remit on account of the Government between India and London such amounts as may be required by it from time to time at the market rate of the day for telegraphic transfers, subject to the proviso that if a large transfer has to be effected in connection with the flotation or repayment of a sterling loan or analogous operation and if it is considered by either party to be inappropriate to apply the rate of a single day, an average rate based on a longer period may be fixed by agreement between the two parties.

13. This agreement may be determined by either party giving to the other party one year's notice in writing expiring on the 31st day of March in any year, such notice if given by or on behalf of the Government to be addressed to the Governor of the Bank and to be served by leaving the same with the Head Office of the Bank or addressing the same to him at the Head Office of the Bank by registered post and if given by the Bank to be served by leaving the same with or addressing the same by registered post to the Secretary to the Government in the Finance Department and immediately upon the expiration of such notice this agreement shall absolutely cease and determine save as to rights or liabilities acquired or incurred prior to such termination.

14. In the event of any dispute arising as to the terms and conditions of this agreement, or as to the rights or obligations of the parties hereto such dispute or difference of opinion shall, in the event of the parties hereto failing to reach an agreement, be referred to the Governor-General whose decision shall be final and binding as between the parties hereto.

15. Nothing in this agreement shall operate to affect in any way the obligations imposed either on the Government or on the Bank by or under the Act or any subsequent amendment or amendments of the Act.

16. The Bank shall be entitled to perform all or any of the matters contained in this agreement through such agency or agencies as may be prescribed by the Act or any amendment thereof or as may be approved by the Government.

IN WITNESS WHEREOF Mr. C. D. Deshmukh, C.I.E., I.C.S., Secretary to the Government of the Central Provinces and Berar in the Finance Department, by the order and direction of the Governor of the Central Provinces and Berar has hereunto set his hand and the common seal of the Reserve Bank of India pursuant to a

Resolution of its Central Board has been hereunto affixed in the presence of its subscribing officials the day and year first above written.

Signed by the said Mr. C. D. Deshmukh, C.I.E., I.C.S., Secretary to the Government of the Central Provinces and Berar in the Finance Department, for and on behalf of the Governor of the Central Provinces and Berar in the presence of—

(Sd.) RAHMAT KHAN.  
(Sd.) ZAKIR HUSAIN.  
(Sd.) I. HUQ.

(Sd.) C. D. DESHMUKH,  
*Secretary to the Government  
of the Central Provinces and  
Berar, Finance Department.*

The Common Seal of the Reserve Bank of India was affixed hereto in the presence of Sultan Meherally Chinoy and Devidas Madhowji Thakersey two of its Directors, and Sir James Braid Taylor, Kt., C.I.E., its Deputy Governor.



(Sd.) SULTAN CHINoy,  
(Sd.) DEVIDAS MADHOWJI  
THAKERSEY,  
*Directors.*  
(Sd.) JAMES B. TAYLOR,  
*Deputy Governor.*

*Supplemental Agreement between the Reserve Bank of India and the Imperial Bank of India.*

AN AGREEMENT made this twelfth day of July 1937 BETWEEN the RESERVE BANK OF INDIA (hereinafter called "the Reserve Bank") of the one part and the IMPERIAL BANK OF INDIA (hereinafter called "the Imperial Bank") of the other part supplemental to an Agreement (hereinafter referred to as "the Principal Agreement") made on the fifth day of April 1935 between the parties hereto whereby the Imperial Bank was appointed as on and from the first day of April 1935 as the sole agent of the Reserve Bank upon and subject to the terms set out in the Principal Agreement.

WHEREAS on account of the passing of the Government of India Act 1935 and the India and Burma (Burma Monetary Arrangements) Order 1937, it has become necessary that the words and expressions used in the Principal Agreement should be modified.

NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED by and between the parties hereto as follows :

On and after the coming into force of The India and Burma (Burma Monetary Arrangements) Order 1937 and notwithstanding the date hereof

- (i) references in the Principal Agreement to 'India' and 'British India' shall be construed as including references to 'Burma' and 'British Burma'.
- (ii) the expression 'Governor General in Council' when used in the Principal Agreement except in clauses 3 and 4 thereof shall mean 'the Central Government'.
- (iii) references in clauses 3 and 4 of the Principal Agreement to the Governor General in Council in relation to his general banking business his accounts and sums due to or from him and references in the Principal Agreement to Government in relation to receipts and disbursements dealt with on

account of Government shall be construed as including references to the Central Government, the Provincial Governments, the Federal Railway Authority, the Governor of Burma (both in his dealings with the revenues of Burma and in his dealings with the Federal Fund of the Federated Shan States) and the Burma Railway Board.

- (iv) for the words "he thinks fit" and "in his opinion" contained in clause 13 of the Principal Agreement, there shall be substituted the words "it thinks fit" and "in its opinion" respectively.
- (v) after the words "of the Act" occurring in clause 10 of the Principal Agreement there shall be added the words and figures "and to Burma scheduled banks as defined in the India and Burma (Burma Monetary Arrangements) Order 1937".

IN WITNESS whereof the Common Seals of the Reserve Bank of India and the Imperial Bank of India have been hereunto affixed in the presence of their respective subscribing officials the day and year first above written.

THE COMMON SEAL of the Reserve Bank of India was hereunto affixed pursuant to a resolution of its Central Board in the presence of Sir James Braid Taylor, Knight, Deputy Governor and Sultan Meherally Chinoy and Devidas Madhowji Thakersey two of the Directors of the Reserve Bank of India who in token of their presence have hereupon signed their names.

Common Seal  
of the  
Reserve Bank  
of India.

(Sd.) J. B. TAYLOR,  
*Deputy Governor.*  
(Sd.) SULTAN CHINYOY,  
(Sd.) DEVIDAS MADHOWJI  
THAKERSEY,  
*Directors.*

THE COMMON SEAL of the Imperial Bank of India was hereunto affixed in the presence of Sir William Lamond, Knight, the Managing Director and Sir William Wright, O.B.E., V.D. and Harry Harrison Burn two of the Directors of the Imperial Bank of India who in token of their presence have hereupon signed their names.

Common Seal  
of the  
Imperial Bank  
of India.

(Sd.) W. LAMOND,  
*Managing Director.*  
(Sd.) W. O. WRIGHT,  
(Sd.) H. H. BURN,  
*Directors.*

## THE INSURANCE BILL.

**The Honourable Sir Nripendra Sircar** (Law Member) : Sir, I beg to move :

"That the Bill to consolidate and amend the law relating to the business of insurance, as reported by the Select Committee, be taken into consideration."

12 Noon.

Sir, the Select Committee had to devote considerable time to this measure on account of its importance to Indian business interests. They were possibly a little embarrassed by the excessive dose of instructions they received and the representations they had to consider from the different people assembled here. I, for instance, received a number of letters which at the head was marked "Camp, Cecil Hotel" and I understand that this was not the only camp. Only people who lived in the *dharmaśala* did not use the word "camp". They are all camps.

**An Honourable Member : Scamps !**

**The Honourable Sir Nripendra Sircar :** The " S " is at the end, and not at the beginning. The invasion of Simla is quite easy to understand, because the interests are very conflicting, and the House will have some idea of the nature of these conflicting interests if I recapitulate them as briefly as possible. First of all, the United Kingdom companies. So far as they are concerned, their point of view is that the Government of India Act is their sheet anchor, that you cannot touch them unless the Indian companies are willing to submit to the same control and the same requisitions. They consider that we have in the Bill and also in the Select Committee put unnecessary restrictions on these companies which had been functioning without any untoward results. That is their view point. Then we come to the Empire companies. In addition to the complaints which are common to them and the United Kingdom companies they have the grievance that the Bill provides for retaliation against them, because, under the provisions of this Bill as introduced and also as reported by the Select Committee, Honourable Members must have noticed, there are certain powers of retaliation to which I shall come at the proper time. At this moment I am only telling the House the different interests which conflict. Then, foreign companies, other than United Kingdom and Empire companies—their grievances are more or less the same as indicated by the United Kingdom and the Empire companies. Then we have the small companies. They call themselves " young companies ", " young life association ", and so on. Although they are young and although I admit their voice has been completely drowned by the drums of the big Bombay business, yet I should say that in the matter of crying they have a fairly lusty voice.

**An Honourable Member : Quite natural.**

**The Honourable Sir Nripendra Sircar :** Nothing is unnatural. (Laughter.)

Their complaint is " Don't you listen to what the big companies say. They are appealing in the name of Indian business, patriotism, nationalism and so on."

**Mr. M. S. Aney (Berar : Non-Muhammadan) :** Love of children.

**The Honourable Sir Nripendra Sircar :** It is not love of children, Mr. Aney. The complaint is that they want to destroy these babies. All the measures which have been stressed upon by big business, they say are intended really for embarrassing and throttling the business of these new and struggling companies. I am only putting forward their views without expressing any opinion at this moment. They say this idea of very excessive deposits, fixing of maximum commission, compelling investment of assets in particular ways and locking them up and so on, they are all very well for the big companies. They cause them little embarrassment but they cause us, the younger and smaller, far greater difficulties. That is their view point. They say " Don't you listen to these big people. Their method, their technique of propaganda is very subtle. They will not approach you in their true colours, they will not let you know that they are after us, the smaller companies, but they will say : ' We want to stop foreign exploitation ! That will at once appeal to your patriotism

but as a matter of fact the measures which they have suggested will not touch the foreign companies at all in any particular matter but will mean the death of many of us". That is their point of view. Then we had, I believe we still have, a fair number of representations on behalf of the provident societies. I won't go into that just now. Then there is another batch for the mutual assurance companies for which as Honourable Members may have seen a special chapter, Part IV, has been recommended by the Select Committee. Then, Sir, the most influential and the most clamorous section, I have kept for the last, namely, what I describe as the big business and, for the sake of alliteration, big Bombay business. Sir, I gave the House some idea of the amount of literature with which we were flooded. I believe that when the Select Committee was going on we had literature more than any human constitution can stand. To start with, this book (pointing to a book), I believe, is in the hands of every Member of the House. It has been beautifully got up with limp cover. No question of expense. Managing agents are rich enough. This, of course, is the *prima donna* in ultra marine, and the gayer little sisters are in muave, green, blue and white, and so on (showing some pamphlets); and for any ordinary human being to resist falling victim to this seductive literature requires unusual determination. I hope none of the Members of the Select Committee did actually succumb to it.

**Mr. N. M. Joshi** (Nominated Non-Official) : I have not read it.

**The Honourable Sir Nripendra Sircar** : You were not on the Select Committee. As regards my opinion of big Bombay business, may I describe their attitude in the language which has been used in the note of dissent by Messrs. Ghiasuddin and Essak. The idea of this section is to "push out foreign companies on the one hand and kill out the smaller Indian concerns on the other and thus provide a sort of monopoly for a few large Indian companies in the field of insurance", which has come to be recognised as a very important part of social service! Sir, after having read this literature and others and having received endless deputations, the Select Committee has got a very high testimonial from this section as will appear from what I read in the *Statesman* of the 27th August and the writing left no doubt in my mind that it has a strange family resemblance to what is to be found in this beautiful bound book. The members of the Select Committee ought to acknowledge with pride the high testimonial they have received.

I read from the *Statesman* :

"Members of the Select Committee, not being insurance men, they have erred to a degree which nullifies the very object of this legislation."

Well, Sir, I presume from what has been said that insurance is a very recondite, very abstruse and very complicated subject, and no one of us here can possibly understand it in spite of the excessive amount of education in insurance recently bestowed on us. I think it was Professor Einstein who said that there are only a dozen men in the world who understand completely his theory of relativity. I presume there are only seven men in India who understand insurance, I mean whose views are found in the report of the Insurance Legislation Committee and I am not one of them. Sir, I can give an assurance to this

[Sir Nripendra Sircar.]

House that the Select Committee, whatever they may have done, whatever the degree of error they may have fallen into, were careful enough to make the interests of Indian business their one primary concern, and, so far as I am concerned, I can assure the House that I have gone to the farthest permissible limit under the present constitution, consistent with justice and fair-play to others. If I object to a particular item, to which I shall refer in a minute, it is not because I do not want Indian business to gain something but because I think that what has been done is not only futile but, it will be an advantage to the United Kingdom Companies, at the expense of Indian Companies.

Sir, coming to the Bill itself, the matter which I referred to a minute ago, namely, the matter to which I object, is based on the definitions which are found in clause 2. If Honourable Members will kindly have before them the Bill, there are three definitions which hang together. One is (8A) on page 2 of the Bill. There the Indian insurer is defined as follows:

“ Indian insurer means an insurer three-fourths of whose paid-up capital is held in their own right by British Indian subjects domiciled in India, and three-fourths of the members of whose governing body are British Indian subjects.”

Then, (8B) defines a non-Indian insurer in these terms :

“ Every insurer who does not comply with the conditions mentioned in clause (8A) shall be deemed a non-Indian insurer.”

And, lastly, (8C) is a definition of the United Kingdom insurer.

“ United Kingdom insurer means an insurer to whom the provisions of sections 111, 113 and 114 of the Government of India Act, 1935, apply.”

Pausing there for one moment, we find that there are three definitions. As a matter of fact, in the Bill the third definition of ‘ United Kingdom insurer ’ has not been used at all. It has been left hanging in the air. About the two other definitions, the only use which has been made of them is in clause 3A. Barring that, in no other clauses the expressions ‘ Indian insurer ’ and ‘ non-Indian insurer ’ have been used. Therefore, we have got to see whether these definitions which lead to clause 3A will really do any service to Indian business. I will ask Honourable Members kindly to turn to clause 3A which is to be found on page 4 of the Bill. I may be permitted to read this clause. It runs thus :

“ No non-Indian insurer shall be registered unless as a condition of the grant of registration the insurer undertakes that he will, when re-insuring any contract of insurance effected by him in the course of insurance business other than life insurance business transacted by him in British India (*whether the policy relating to the contract is or is not issued in India*), re-insure with an Indian insurer to the extent of one-tenth of the total amount insured under any such contract, unless he has obtained from the Superintendent of Insurance a certificate that such re-insurance cannot be safely effected with an Indian insurer.”

If I had reasonable grounds for hoping and for believing that this clause taken with the definitions, which I have read to you already, will lead to Indian business gaining ten per cent. by statute of the re-insurance to be done by foreign companies, I would have supported this measure. But I indicate my difficulties to the House and I will not go into the matter at great length now—so that the Honourable Members can for



themselves come to their decision and judge whether the difficulties which I feel are real or imaginary.

Sir, the first difficulty I feel is under section 113 (1) of the Government of India Act and, as I said, I shall not go into detail now. I may say that I am proceeding on the opinion which we have received on the construction of this section both from England and from lawyers in India. As I read it, the position will be not that this clause is *ultra vires* or that this clause is illegal but by reason of section 113 (1), although a United Kingdom company does not, in fact, have three-quarters of their directors as Indians and although in fact three-quarters of the capital of the Company are not owned by Indians, yet under section 113 (1), as I read it and according to the advice we have received, they will be deemed to be an Indian company. As Honourable Members are aware, whenever white is asked to be taken as black, we say white must be deemed to be black. That is the significance of the word 'deem' in law. If I am right there—and again I would ask Honourable Members to think the matter out for themselves—then what is the position? The position is that, first of all, the United Kingdom insurer will contend—and, in my opinion, contend correctly—that he is not hit by it at all, and, therefore, he need not re-insure in an Indian Company. If the matter had rested there, it would have been bad enough, but it is made worse when you consider the other end, namely, the company with which re-insurance is going to be made. Let us take, for illustration, a German company, which has got to re-insure by reason of this clause. Under this clause, the German company will have to re-insure, but with whom? They will have to re-insure with an Indian company and if my construction of section 113 (1) is right, then German company will say: "I have carried out your requisition: I have re-insured with a United Kingdom company which must be deemed to have complied with the Statutory conditions". Therefore, again, if I am right, it means that not a single piece of re-insurance is guaranteed to Indian companies by this clause. That would be my first objection. If I had contended that this is illegal or *ultra vires*, then, of course, under another section of the statute sanction of the Governor General would have been necessary for its introduction.

Then, Sir, coming to the definitions themselves, apart from the question of law which I have raised, I ask Honourable Members kindly to consider this. Is this definition a workable definition? Namely, "three-fourths of the capital owned by British Indians and three-fourths of the Directors are British Indians". Leaving aside for one moment the question of directors, and coming to the shares, as Honourable Members will remember in connection with Company Law Bill—and Honourable Members who are lawyers know well enough the legal position—If I buy a number of shares, and I register the shares with the company in my name, the company has no power to enquire whether I am the real holder or whether I am the nominee of a European or whether I am the nominee of an Indian. The Superintendent of Insurance will have to decide whether a particular company is a non-Indian company or an Indian company according to the definition. What is he going to do? What is the company going to do? Is it expected that the Superintendent will bring a regular title suit, a

[Sir Nripendra Sircar.]

declaratory suit to pursue the question of benami in respect of an assurance through the Court and then come to the conclusion as to whether it is an Indian company or a non-Indian company. I submit with all humility to those who have drafted this definition that that will be a fatal difficulty in the way.

There is another difficulty, which is not an imaginary difficulty, not a difficulty which is put up simply for making out a case, but a real substantial difficulty and that is this. Three-fourths of the paid up capital is going to be owned by British Indians. Supposing, today a company is started with 400 shares, valued at Rs. 1,000 each and at the outset three hundred shares are owned by Indians and 100 shares are owned by non-Indians or non-British Indians. That company is an Indian company according to the definition which has found favour with the Select Committee, because three-fourths of the shares are held by British Indians. I am not now going into the question of nominees or benamis. Supposing the next day a block of shares, 25 in number, is sold by an Indian shareholder to a non-Indian—a European—in the market, then, Sir, on that day it ceases to be an Indian company and it becomes a non-Indian company and in the evening if a European shareholder sells 30 of his shares back to an Indian, it becomes again an Indian company and in this way it might change its nationality and colour any number of times within the course of the day. The wretched shareholder who has got to sell his shares, what is he going to do? The broker, as a matter of fact, will not tell you who is going to buy them, we know the practice of the market—and how is the shareholder to find out the nationality of the gentleman who is going to buy the shares? Whether the result of selling the shares will turn a non-Indian company into an Indian company or *vice versa* will depend upon the colour or nationality of the man who is behind the broker. I submit that is another difficulty. The greatest difficulty is based on what we know, at least most of us know, namely, the way in which the shares are dealt with in the market, by means of blank transfers, if shares are bought by me, I need not get myself registered at once or at all and the shares may pass through eight different hands before the ninth man thinks it worth his while to get his name registered. The position is that unknown to others the shares are passing through eight different hands, and possibly the Indian company is changing its character at eight different times. I venture to submit that this is a matter for your serious consideration, and you have got to come to a conclusion as to whether this idea of compulsory insurance is really going to do any good to Indian business. If I had been convinced that the result of the clause is going to be that Indian business will get this reassurance of ten per cent. from foreign companies, then as I said and, I will repeat, I would have supported the measure. I think I should tell the House of reinsurance with Indian concerns as it in fact takes place. I tried my best to arrive at some decision as to what is the amount of reinsurance which now-a-days is placed with Indian companies by foreign companies, but I regret to say that I cannot come to a satisfactory conclusion. On the one hand a note was put up according to which only 2½ per cent. of reinsurance is placed with Indian companies. That note was obviously wrong. Equally

wrong is the other contention according to which I gather some ten or nine per cent. of re-insurance is placed with Indian concerns. Possibly the truth is half way between  $2\frac{1}{2}$  per cent. and ten per cent. It is very difficult to ascertain as to what is exactly the amount of reinsurance which is now placed with Indian companies. It will not be safe to assume that anything more than six per cent. is really placed with them. The extreme claims are  $2\frac{1}{2}$  per cent. at one end, and nine or ten per cent. at the other end. If we succeed in attaining the result which is desired by the framers of this definition and of clause 3 (a), we may be able to increase this five per cent. or six per cent. or whatever it is, to ten per cent. If, however, my view of the law is right and compulsion is introduced, it is not difficult to imagine that there would be resentment and as I said, not one pice of reinsurance would be placed with an Indian company. I would once more beg this House to apply their minds to these questions, and delete an unworkable and futile provision.

Then, Sir, there is another matter in connection with this which I would like to place before the House, not in a spirit of uttering a threat or of attempting to coerce this House to change their opinion if it is against mine. There is, however, this possibility that the view may be taken that whether my opinion is right or my opinion is wrong, at any rate the question of law involved is a doubtful matter. If that view is taken, then under the instructions issued to the Governor General, the Bill must be referred for the signification of His Majesty's pleasure. I am not suggesting that if the Bill goes there it is bound to be wrecked there, it might or it might not be, in fact the Governor General may or may not consider the matter doubtful but the probability of clause 3 (a) compelling a reference to England has got to be borne in mind. I would ask every Honourable Member of this House to take this statement in the spirit in which it has been uttered, not as a threat, but as pointing out a serious difficulty in my way. I, as much as other Members, feel that this is a Bill which is a good Bill (though it may not satisfy all the fighting sections), and this Bill should be passed if possible without delay. After all, Honourable Members will have to consider whether the risk of this kind or doubtful questions of this kind are worth being raised for trying to achieve the result of increasing reinsurance from five or six per cent. to ten per cent. The risks are not worth taking and the game is not worth the candle.

Then, Sir, having dealt with 3A, I may tell the House that I do not propose to tire them by taking them through every single section in this long Bill, but only place before you some of the important provisions leaving others to be discussed at the time of the amendments. I shall indeed be keenly disappointed.....

**Mr. M. A. Jinnah** (Bombay City : Muhammadan Urban) : Will the Honourable Member give the reference to the paragraph of the Instrument of Instructions mentioned by him ?

**The Honourable Sir Nripendra Sircar** : I think it is 19 or 27, but if my Honourable friend will give me time till tomorrow, I will give him the exact paragraph. I believe it is one of the sub-clauses of 19 ; but I am not sure.

Now, Sir, I do not propose to go into all the sections ; that will tire the House and it is unnecessary. We are going to discuss most of them

[Sir Nripendra Sircar.]

when amendments come up ; and, as I was going to say, I shall indeed be keenly disappointed if I do not get at least 400 amendments to this Bill. (Laughter.)

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhammadan Rural) : We can promise you a good deal more.

**The Honourable Sir Nripendra Sircar** : But I said, " at least 400 " . That allows 4,000. (Laughter.)

Of the clauses to which I desire to draw your attention as concisely as possible, I may here mention one, *viz.*, that this Bill provides for compulsory registration of all insurers. Whether they are Indian or non-Indian or whatever they are, they have got to be registered before they can function here and carry on business. I then wish to draw the attention of the House to two sub-clauses. If they will kindly refer to paragraph (e) of sub-clause (2) of clause 3, they will find this :

" In the case of an insurer having his principal place of business or domicile outside British India, a statement verified by an affidavit made by the principal officer of the insurer setting forth the requirements (if any) not applicable to nationals of the country in which such insurer is constituted, incorporated or domiciled which are imposed by the laws or practice of that country upon Indian nationals as a condition of carrying on insurance business in that country ; "

This has got to be taken with a section which comes much later. But the reason why the Select Committee added this is clear. This Bill provides for meting out the same measure to a foreign company as an Indian company would have to receive if the Indian company were carrying on business in the foreign country. That is to say, if by law or by administrative practice an Indian company carrying on business in Germany,—I am giving it as an illustration,—is put to certain restrictions, those restrictions shall be placed upon a German company carrying on business here. That being the idea, this was put in by the Select Committee really for getting information on affidavit as to what conditions have got to be complied with by an Indian company which thinks of carrying on business in the foreign country. This is for getting that information. Then I draw your attention also to sub-clause (3) of clause 3 :

" In the case of any insurer having his principal place of business or domicile outside British India, the Superintendent of Insurance shall withhold registration or shall cancel a registration already made, if he is satisfied that in the country in which such insurer has his principal place of business or domicile Indian nationals are debarred by the law or practice of the country from carrying on the business of insurance, or that any requirement imposed on such insurer under the provisions of section 53 is not satisfied."

The necessity of adding " by law or practice of the country " arises from the fact that we were informed that in certain countries although there is nothing in the law to prevent a foreign insurance company from functioning there, yet by executive orders such foreign companies are excluded ; and to rope in both administrative orders and law this has been added by the Select Committee.

**Pandit Lakshmi Kanta Maitra** : What are those countries ?

**The Honourable Sir Nripendra Sircar** : I was told,—I speak subject to correction,—that Japan is one of them.

**Mr. B. Das** (Orissa Division : Non-Muhammadan) : And also Italy.

**The Honourable Sir Nripendra Sircar :** I am told by Mr. Das that in addition to Japan I might have mentioned Italy.

Then, Sir, coming to the requirements as to capital, the Bill, as Honourable Members will remember, provides for a working capital of not less than Rs. 50,000, exclusive of deposits and preliminary expenses in connection with the flotation and the formation and starting of the company. That is provided for by clause 5 ; and, as I have said, one of the points which will have to be considered is whether the complaint of the younger companies is just, that both in the matter of working capital and in the matter of deposits we have made these amounts excessive. I can assure the House that in connection with every matter that will arise I do not intend to take up any dogmatic or an unreasonably obstinate attitude but shall be quite ready to consider points brought out in debates here, on the floor of the House.

Sir, about deposits, if I may just shortly remind the House, for life business only the deposit is two lakhs of rupees, and for fire  $1\frac{1}{2}$ , for marine only  $1\frac{1}{2}$ , for accident and miscellaneous  $1\frac{1}{2}$  ; for life plus fire or marine or accident and miscellaneous, it is three lakhs out of which two lakhs are to be allocated for the life business. Then for life plus any two of those I have mentioned, the deposit is four lakhs, out of which two lakhs, as in the previous case, has got to be in the case of life insurance business specially earmarked. When it is business consisting of life insurance plus all the three other businesses I have mentioned, it is  $4\frac{1}{2}$  lakhs, out of which two lakhs must be kept for life insurance. Where there is no life insurance business, but any two of the above three are carried on, the amount has been fixed at  $2\frac{1}{2}$  lakhs ; and where there is no life business but all the three other businesses are carried on, it is  $3\frac{1}{2}$  lakhs. In this connection, I should point out a change,—rather an important change,—favourable to the younger companies which has been introduced by the Select Committee. When I say “ younger companies ” I do not want to mislead the House ; there are some companies which never get old, they are always young. (Laughter.) Now, Sir, in connection with the younger companies what the Select Committee have done is this. I think in the Bill which I introduced, speaking from recollection, I allowed them three years for payment of the deposit. What has now been done is that they are allowed to pay in seven instalments ; they must pay at once Rs. 50,000 and the balance in six instalments. I thought young lives would feel cheerful after the concession which had been made to them ; but appetite grows, and I was told that they would be perfectly happy if they got ten years. And now I am told by Bhai Parma Nand that even if you give them 20 years they will all die. (Laughter.) Well, Sir, there are some babies which are so sickly that possibly to put an end to them in a perfectly non-violent way is the most desirable course. (Laughter.)

Then, there is a small matter on which I need not detain the House long. The Select Committee has added that a Register should be kept in India of policies and claims. There are various particulars and details with which deposits are encumbered, but it will not be useful in any way if I mention them here.

There will be much discussion on clause 15 dealing with the returns to be made by insurers which I may describe shortly as “ outside insur-

[Sir Nripendra Sircar.]

ance". I ought to explain what I feel at the moment about them. Certain requisitions on outside companies were made compulsory under the Bill which I introduced. The requisitions have been added to by the Select Committee to a considerable extent, but I will not tire the House by going into details; and I shall discuss the question generally. To the increase of the burden which the Select Committee has placed on outside insurers, very strong objection has been taken that they are really not necessary, and they should not have been introduced in the Select Committee. Reading two dissentient notes, it is obvious to me that if they are pursued, there will be, on the one hand, amendments for reducing the burden to what was laid on them in the Bill as introduced or possibly less; and on the other hand, amendments will be moved for increasing the burden still further.....

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : And delete the clause also.

**The Honourable Sir Nripendra Sircar** : That is increasing the burden. I have considered this matter very carefully. I shall be prepared to support the decision of the Select Committee. If further burdens are intended to be placed, the point of view from which I intend to look at them,—and I hope other Honourable Members will look at it from the same point of view,—is this. Will these additional burdens which are going to be thrown upon outside companies, whether in the shape of another Schedule or otherwise, do any good to Indian business? Will that contain information which will help India or Indian business in any way? If it does, then I shall offer no resistance to the increase of those burdens; but on the other hand, if those burdens are going to be placed not for any benefit to us, but simply because it might embarrass others to some extent, then, Sir, I hope the House will agree not to support such a proposal. It will depend on the merits of the particular measure which is included in the amendment.

Then after clause 15, I should like to take you to clause 26. This is a clause which will loom large in the discussions here. Clause 26 is at page 12 of the last paragraph. May I just describe the situation created by the clause in colloquial and non-legal language? What has been recommended by the Select Committee is, that every company, Indian or non-Indian or Empire Company, all insurers, in fact whether company or partnership or individuals, will have to keep certain amount of their assets in India. That amount of assets may, again in colloquial language, be described as assets equal, at least in value, to the matured claims against the insurer, plus a reserve calculated according to actuarial methods representing the value of the claims which are maturing but which have not yet matured. That is to say, the present value of the totality of the claims against the company have got to be ascertained. To find out the matured claims is quite easy, and those who are experts can equally without difficulty arrive at a figure representing the value of the claims which are maturing. These two sums taken together represent a certain amount, and assets equal to that amount must be kept in British India. I am not complicating the matter by telling you as to how those assets are to be kept.

Honourable Members will remember that when the Bill was introduced, I believe the Bill provided for investing 33 1/3rd per cent. in

Government securities. Under clause 26 the whole of the assets representing the value of the claims matured and maturing have got to be set apart, preserved and kept in the Reserve Bank for safe custody. When this was passed by a majority of the Select Committee, it was pointed out to me,—not that I am responsible for it,—that it would be unworkable, because many Indian companies have got assets represented by buildings, by loans on mortgages, other house properties and so on.

**Pandit Lakshmi Kanta Maitra :** Loans on policies also.

**The Honourable Sir Nripendra Sircar :** Loans on policies will be deducted in arriving at the figure. What the opponents of the provision say is,—and I have no doubt that the contention raised is a very serious contention,—how are we going to put in the whole of these assets either with the Reserve Bank or with some other Bank or in some other way, if we are not in a position to do so by reason of all our assets not being in the form of liquid assets? That is one objection which has been taken. As I said when I introduced the Bill, my ambition was far more limited, and I had provided for 33 1/3 per cent. of the assets being invested in Government securities.

Then, there are further details of clause 26 with which I will not now tire the House, because, I am sure this clause 26 will be debated at great length on the floor of the House, and indeed that deserves to be done, because it is a matter of great importance, and it is obvious that difficulties lie in the way of at least the Indian Companies,—I am not speaking for English companies at the moment,—carrying out the burden which we have placed on them. I am sure English and other foreign companies will strenuously oppose clause 26.

Then I come to the vexed question of Managing Agents. As I said, I will not go back on the assurance I have given that I shall not be obstinate, but I desire to be frank. At the present moment I have homicidal mania for the Managing Agents of insurance companies, though I recognise the necessity of Managing Agents of other companies. (Laughter.) I dare say I may be cured by good treatment, by sympathy and by patience, but at the present moment, I entertain violently hostile feelings to Managing Agents of insurance companies. I have been asked in dozens of representations which poured on every Member of the Select Committee, “Why are you so inconsistent? You gave 20 years for other companies, why only three years for insurance companies?”

**Pandit Lakshmi Kanta Maitra :** Because you had not that homicidal desire last year!

**The Honourable Sir Nripendra Sircar :** No. The statement of fact that I advocated 20 years for Managing Agents of all companies is not correct. I was described—as fighting the battle of the Managing Agents, and some people who have now developed rather a soft corner for the Managing Agents were then the bitterest enemies of the Managing Agents. (Laughter.) But Honourable Members will remember that my whole argument was based on statements like those of Sir Purshottamdas Thakurdas which I quoted on three different occasions, and the argument was this. Having regard to the history of industrial concerns here.....

**Mr. M. A. Jinnah :** Peculiar history !

**The Honourable Sir Nripendra Sircar :** . . . . . peculiar, very peculiar history, having regard to that, in industrial concerns you cannot do without Managing Agents. You cannot secure capital for manufacturing concerns without managing agents. But, Sir Purshotamdas Thakurdas, not only in his evidence before the Enquiry Committee, but also in his recent utterances, has repeated that what he has said about managing agents does not apply to banks and insurance companies. If that is so and if this House, without a division, and with acclamation, carried the measure against the banking companies, how can they advocate Managing Agents for Insurance ? I see no reason why the Managing Agents should not be treated in the same way, and I confess I made a mistake when I provided for them three years when they ought to have been allowed two. But it is not too late to move an amendment. (Laughter.)

I will not go into the question of Managing Agents in greater detail now, but when the time arrives, it will be my duty to point out that an insuring company invests money and that there is no pretence for managing agents as in an industrial or a mining venture. In a mining company, for instance, the mine may collapse and Managing Agent must find, say, Rs. 20,000 at once, on his own credit. It is the credit of the Managing Agent which enables the company to go on. The basis of the argument which was used in connection with giving 20 years to the Managing Agents is altogether non-existent, according to my humble view, in the case of insurance and I shall be in a position to show what unconscionable amounts are taken by Managing Agents in connection with insurance business. But it is rather interesting to observe what the Select Committee has done. What they have done is this. They have given them ten years,—well, Sir, I have lost there—but they have put in a condition that the Managing Agent cannot get more than Rs. 2,000 a month, that is, Rs. 1,000 as salary and Rs. 1,000 for miscellaneous allowances, perquisites, etc. ; that is, Rs. 2,000 is the highest. I may tell you, as proceedings of the Select Committee are supposed to be secret, they were broadcasted simultaneously with our speeches there. (Laughter.)

After the managing agency clause had been settled at the committee, the same evening I came across a Managing Agent who was in a fairly frenzied condition. He said, "What have you done ?" I said, "I have done nothing. I wanted to give you three years, but you have got ten years, and don't you thank your stars ?" "Nothing of the kind. You have put restrictions. I can make more in three years without restrictions than with restrictions in ten years." (Laughter.) I am sure that if you send for their representatives and give them the choice, "Will you take five years without restriction, or will you take ten years with restriction," they will plump for five years and will accept even four or three years—but restrictions they will resist.

I need not tire the House with sections about amalgamations and so on. The Select Committee had in mind, as also the authors of the Bill, that on account of heavy deposits, on account of other restrictions, on account of the tightening up of the law, it may be necessary for some of the smaller companies to amalgamate, and the object which the Select



Committee had in view was, as far as possible, to make amalgamation an affair as simple as possible. I am not going into the questions of nominations and assignments; they are bound to come up before the House and be threshed out here. They, however, give welcome relief to policy-holders.

Then we come to clause 35—no commission to be paid except to a licensed agent. There, again, the fight was between the big and the small, the contention of the smaller companies being that this will hamper them. But the Select Committee has accepted it, and, as at present advised, I am very strongly in favour of keeping this clause about licensing agents. Certain difficulties have been pointed out, and I dare say they will be pointed out again, but Honourable Members will have to come to a conclusion whether, considering arguments *pro* and *con*, we are doing any good—I think we are—by insisting on licensing of agents. As regards the prohibition of rebates, I hope every Member of the House will support the decision of the Select Committee which was also in the Bill. A matter will arise, as one of the major points for discussion on the floor of this House, whether the Select Committee was right in not fixing a maximum commission in respect of insurance. I shall now only present the two contending views, leaving Honourable Members to have time to come to their own conclusion. It is said by those who want a maximum to be fixed that unless you fix a maximum your provision for prohibiting rebate becomes meaningless, it becomes altogether useless. I confess I do not agree with the view that it becomes altogether useless or meaningless. Let us look at it from the practical point of view. Here is my agent who is going to work for me as the seeker of policies. He will be quite satisfied to work for 15 or 20 or 25 per cent. Why do I pay him 100 per cent. now? It is admitted that sometimes more than 100 per cent. is paid. Why do I pay him 100 per cent. or more now? Because I know perfectly well that out of the 100, 50 or 75 per cent. will go to the man who takes out the policy. That really explains the excessive amount of remuneration which is paid to the agent to enable him to keep a share for himself and part with a share to the man who takes out the policy. My submission is that if you do not fix the maximum commission but insist on a rebate the provision is not useless. There will be no incentive for me to give 100 per cent. to my agent. So I do not agree that it becomes altogether useless. Then it is said in the big book, I mean the *de luxe* edition of the Insurance Committee's Report—(the younger companies say that their technique of propaganda is subtle, and so it is)—“No, no. It has nothing to do with younger companies; it is only for the benefit of India. It is Mother India who is concerned.” How? “Because, you see, these foreign companies are dumping and if they are prevented from paying more than 25 per cent. or 40 per cent. or whatever the maximum may be, then India will flourish, Mother India will get a little more strength.” (Laughter.) Two of the signatories of this book were examined as witnesses, two of them were on the Advisory Committee, and without tiring the House by going into detail.....

**Pandit Lakshmi Kanta Maitra :** You are not tiring.

**The Honourable Sir Nripendra Sircar :** .....but I myself may get tired, an expert was put up, and I must admit that he put up  
 1 P.M. the case for India as high as possible, and when India's case is put up by an European or an American, it receives greater weight.

[Sir Nripendra Sircar.]

He admitted that he is not able to prove anything about "dumping" or "unfair competition" now, but he suspects and he alleges that these foreign companies pay large rebates. Stop for one moment there. Let us assume that it is possible that they do. It has not been proved that it is quite possible that they are doing it, but on the other hand are we to ignore the smaller companies altogether because by reason of the subtleness of the propaganda our heart is going to be touched with patriotism for shutting out the foreigner? Look at a small company which is struggling or which is being started today. Why should it not, supposing the limit is 40, in a particular case, pay 50 per cent. or 55 per cent. for securing business, knowing that it has a hard struggle to keep it going against well-established big companies. If that is so, why should they not pay? Then it is said, 'Well, if you allow them to pay rebates without limit, what will happen to the company? The company will go insolvent'. May I present the other side of the picture? As a matter of fact, up to this day, how many companies have, if any, gone insolvent because they have paid excessive commissions?

**An Honourable Member :** None.

**The Honourable Sir Nripendra Sircar :** Is that not really an argument for the sake of argument? Secondly by reason of the provisions which I hope you will adhere to, burdens have been placed on all companies, big and small, European and non-European, to guarantee that business is run on sound lines. You have given power to the Superintendent to inquire into their affairs and to give them directions when things are going wrong. Power is also given to wind up the company if its affairs are going wrong. By this control, supervision and powers of interference, the younger companies, say, you have done all that is necessary and no further hindrance should be put in their way, which prejudices us in our struggle against well-established and big companies. These are the two opposite views which I place before you for your consideration. Then, there is a small matter, and not a very small matter either, which is of practical importance. It was in the Bill also. Honourable Members may remember and may possibly have come across cases where policies are issued from England and if there is any dispute, questions will be tried under the English law, the money is payable in England and so on. That does create difficulties sometimes, I do not say often but it does create difficulties in the way of the Indian assured and particularly if he is a small man. He has got to get his money there. If there is any difficulty, he has to file the suit in England and so on. What has been provided is that if the policy is issued (and it need not be issued in England), but in respect of business transacted in India, the assured will have the right to receive payment in British India, whatever provisions to the contrary may be existing in the policy and further he will have the right to sue in British India and any dispute between the policyholder and the company will be decided under British Indian law. Although the cases are not of very frequent occurrence, I still venture to think that is a move in the right direction.

Then clause 41—Payment of money into court—I am not going to read that long clause but this provision is extremely necessary. Cases are not infrequent where insurance companies hold back money on the ground,—

I do not say on the pretence—it may be legitimate ground, that we cannot make over the money to anybody, because there is nobody to give us a discharge. Two sons of the deceased policyholder may be fighting and they may have set up two different wills and so on. The result is that ultimately by the time the dispute is over, and this may be two or three years or if the parties are rich, and go to the Privy Council, the case may drag on for ten years. In the meantime the money earns no interest. What is provided is that where such is the case and the plea of the insurance company is that it does not know whether it can get an adequate discharge, then the company shall pay the money into court. The costs of the application for paying money into court has got to be borne by the insurer but if further costs are incurred by reason of any unreasonable conduct of the man claiming the money, then the costs in such a case must remain in the discretion of the court.

I will not trouble you with the sections relating to winding up, sections 44 to 52. I now come to clause 53 which deals with, if I may use colloquial language, powers of retaliation. In the Bill as introduced, what was provided was that the Governor General in Council may impose conditions on foreign companies exactly similar to those which would be placed on Indian companies in those foreign countries. Now, that 'may' has been changed into 'shall'. That is, it has been made obligatory for the Governor General in Council to take these retaliatory measures. I want this Honourable House to consider carefully one matter. What answer I am going to give to the question as to whether it should be 'may' or 'shall' will depend a good deal on what is going to be provided in the other sections. For instance, if in the matter of deposits, in the matter of keeping assets and so on, in the bigger matters there is no discrimination of the foreign companies, whatever the country of origin, and they are under the same obligation as the Indian companies, then if only small matters are left out, I would rather not have this in a mandatory form. It may be that there is a trivial difference between Indian law and Czechoslovakian law. We shall have to pursue that and to insist on something being complied with by the company here which is of no use to anybody. Otherwise, it is not my intention to suggest to this House that if it is 'may' it will be left to the Governor General in Council to decide arbitrarily what should be done to foreign companies. If matters left open are limited to what I have described as minor matters then the provision should be permissive. I ought to draw the attention of the House to a provision which has been made and which is of far-reaching consequences. It is this. If an insurer has taken premia from a policyholder for two years, then after the death of the policyholder it will not be open to the insurer to refuse payment on the ground that there was some misrepresentation in the statements or in the medical reports or friends' reports which led to the issue of the policy. We have made an exception in the case of frauds. If the insurance company is in a position to prove that it is a fraud which was practised, then it will not come within the operation of this rule. But I may remind the House of two cases recently tried in the Calcutta High Court and the insurance company lost both the cases. Other cases were settled. They were tried by Justice Lort-Williams. The Learned Judge points out that under the law, as it stands, when you make those questions and answers the basis of the contract, as is usually done, then even if these statements are

[Sir Nripendra Sircar.]

immaterial, the contract becomes void and the policyholder gets nothing. The idea is to prevent insurance companies from raising this plea. As a matter of fact, they have two years for making enquiries. I do not agree to omit the proviso in case of fraud because in my humble opinion that will be a setting of premium on fraud. If a man knows that even if he commits fraud, all that he has got to do is to manage to exist for two years and then it will be quite safe, that will not be a desirable situation.

**Pandit Lakshmi Kanta Maitra** : The onus of proof ought to be on the insurer.

**The Honourable Sir Nripendra Sircar** : It has been provided in that way : the onus is on the insurer. If my Honourable friend, Pandit Lakshmi Kanta Maitra, will kindly turn to clause 39, he will find what, I think, meets the point which he has suggested by his question. It runs thus :

“ No policy of insurance shall, after the expiry of two years from the date on which it was effected, be called in question by an insurer on the ground that a statement made in the proposal for insurance or in any report of a medical officer, or referee, or friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false unless the insurer shows that such statement was on a material matter.....”

It must be not only a misrepresentation but it must be fraudulent and on a material matter—

“ and fraudulently made by the policy-holder and that the policy-holder knew at the time of making it that the statement was false.”

All that has got to be shown by the insurer.

I am afraid, Sir, I shall take about 15 minutes more.

**Mr. President** (The Honourable Sir Abdur Rahim) : In that case the Honourable Member can continue his speech after Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

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**The Honourable Sir Nripendra Sircar** : Sir, during the course of my speech this morning, my Honourable friend, Mr. Jinnah, wanted reference to the paragraph in the Governor General's Instructions. I shall read it and then hand it over to my Honourable friend. This is paragraph 27 :

“ Our Governor General shall not assent in Our name to, but shall reserve for the signification of Our pleasure any Bill of any class herein specified,”

that is to say, I need not repeat, (a), (b) and (c) as item (d) is the one which I think touches the matter :

“ (d) any Bill regarding which he feels doubt whether it does or does not offend against the purposes of Chapter III, Part V, of the said Act.”

This may involve this course being followed, if clause 3-A is retained.

The Select Committee has introduced a provision which is to be found in Clause 43, the result of which is that no dividend or bonus is to be declared except out of surplus ascertained by actuarial valuation. By some it was considered unnecessary, but I think it is a useful provision.

I should like to make a passing reference to clauses 54 and 55. Clause 54 relates to particulars to be filled by insurers established outside British India. The previous clause as I said before we adjourned for Lunch relates to the power of the Governor General in Council to deal with foreign companies in a retaliatory measure. Under clause 54 :

“ every insurer having his principal place of business or domicile outside British India, who establishes a place of business within British India or appoints a representative in British India with the object of obtaining insurance business, shall within three months from the establishment of such place of business or the appointment of such agent, file with the Superintendent of Insurance—

(a) a certified copy of the charter, statutes, etc.,

(b) a list of directors if the insurer is a company,

(c) the names and addresses, etc.,

\* \* \* \* \*

(e) a statement of the class of insurance business to be carried on by the insurer.”—

and then there has been added by the Select Committee a clause to which I wish to draw your attention,—

“(f) a statement verified by an affidavit setting forth the special requirements, if any of the nature specified in section 53 imposed in the country of origin of the insurer on Indian nationals.”

The next clause 55 relates to books to be kept by insurers established outside British India. That really finishes the part relating to insurance.

• We come now to Provident Societies and Co-operative organisations. The main provisions to which I need only make passing references are, that they must not guarantee a larger amount than an annuity of Rs. 50 or a sum not exceeding Rs. 500. Under clause 60, what is called the system of dividing policy, that has been abolished. We have provided also for registration and for working capital, viz., that the working capital should not be less than Rs. 5,000, exclusive of deposits and preliminary expenses. The amount of deposit wanted is to be found in clause 63, that is Rs. 5,000 deposit for the first year, and further deposit every year of not less than one-fifth of the gross premium income, until the sum total of the payments comes up to the limit of Rs. 50,000.

I need not trouble the House with the register of books and things of that kind, of revenue accounts, balance sheets, etc. These are details, but details have been attended to. Reference may be made to clause 71 which is an important provision to which many Provident Societies are objecting. But I think this House should adopt it for the safety of the people who have resort to these Provident Societies. Speaking briefly, the object of this clause is, that every five years or earlier if that is required by the constitution of the particular Provident Society, an investigation should be made into the financial condition including valuation of the assets and liabilities of that society. It will be necessary for the actuarial report which will be founded on that investigation to contain various particulars which are set out in clause 2, but with which I do not think I should trouble this House at this stage. The important provision which follows, from

[Sir Nripendra Sircar.]

what has gone before, is that if there is no surplus according to actuarial valuation (which *ex hypothesi* has been made), i.e., no surplus for dividend or bonus, then the actuary will report whether the society is in an insolvent condition. He should further report whether there should be winding up proceedings. Honourable Members will have noticed that in the Select Committee an improvement has been made in relation to various matters where the Superintendent and other officials are given powers to interfere with the affairs of the insurers and to give them directions and so on. The Select Committee has added that in every case an opportunity should be given to the insurance company or the insurer to explain whatever has been found against him by the Superintendent. I think that is a reasonable provision.

Clause 73, I think, is still more important because it insists on an actuarial examination of schemes. At the present moment, as Honourable Members may be aware, there have been too many Provident Societies and many of them have absolutely wild schemes which do not stand examination by anybody understanding finances or accounts. The idea is not to allow societies to go on with schemes which must necessarily end in disaster. As regards investments of funds of Provident Societies, the Bill provides for 50 per cent. investment in Government securities, and there are also provisions similar to those in the Company Law—that is no loans to directors, managers and so on. I am not going now into the different powers which have been given to the Superintendent, but he has got very extensive powers for looking into and examining their affairs and their books of accounts and so on.

**Pandit Lakshmi Kanta Maitra :** He is an insurance Hitler !

**The Honourable Sir Nripendra Sircar :** No. If I may remind my Honourable friend, in many instances the Superintendent is subject to the powers of the Court. I would like my Honourable friend to say in Germany to Hitler, that he is subject to jurisdiction of Courts. There will be no adjournment motions over the fate which will overtake my friend.

Then, Sir, part IV deals with mutual assurance companies. I admit that that was an omission on our part ; we had not attended to them properly. But they made representations and the provisions which have been made in Part IV, I know, have generally met with their acceptance and they are fair. The provision is, that they should have a working capital of Rs. 25,000 ; and, as Honourable Members well know, mutual assurance societies have no shareholders but only policyholders are members of the company.

Then, as regards the miscellaneous provisions, of course there is a short clause for penalty for contravention or for default. That is to be found in the Bill ; but a matter which has struck me since the report of the Select Committee has been published I should place before the House for consideration without myself expressing any opinion one way or the other. Under this statute we have provided for penalties for various defaults and contraventions. It has been fairly obvious to me, at least during the last few months, that there is a good deal of business competition,—there must be in every business,—but there is very great

rivalry and jealousy between the smaller companies, the bigger companies and so on. What I want the House to consider is whether to avoid harassments, for avoiding insurers being dragged to police courts at the instance of anybody who may present a petition before a magistrate, it is necessary to have some kind of control ; that is to say, the sanction of some responsible authority. I have no suggestions to make as to who that would be ; if the principle is accepted it may be I think the Superintendent of Insurance or anybody else.

**An Honourable Member :** The Advocate-General of the Province.

**The Honourable Sir Nripendra Sircar :** As Advocate-General I am painfully conscious of ignorance of facts when giving sanctions. When a file was put up and I had to give my sanction, I heard one side and the other side was not represented, facts had not been fully investigated and yet I had to say whether a *prima facie* case had been made out or not. However, that is a matter of detail. The first thing is, whether the House thinks such a provision is necessary or not. If the House is of that opinion we can discuss the matter and come to some conclusion as to what that sanctioning authority should be. If the House thinks it is not necessary, there is an end of the matter and we need not pursue it further.

**Pandit Lakshmi Kanta Maitra :** No more power to your Superintendent.

**The Honourable Sir Nripendra Sircar :** I will not argue the matter further now. I find that my Honourable friend has a horror of the Superintendent but we must have somebody to look into the affairs of the company. If the name "Superintendent" is obnoxious, call him Adviser or call him a Friend,—call him by any other sweet name instead of the obnoxious name of 'Superintendent'.

**An Honourable Member :** Call him Dictator !

**The Honourable Sir Nripendra Sircar :** I would not call him Dictator which he is not ; call him a Friend of the insurance companies.

Then, Sir, similar to a provision which this House adopted in connection with Company Law, *viz.*, power given to the court (clause 98) by which, in proper cases, the court may grant relief if it finds that a mistake has been made by inadvertence or the circumstances are such that the penalty should not be extracted. We took that from the English Act in the Company Law, and that has been reproduced here in the Insurance Bill.

Sir, there are only one or two very small matters and I have done. I think I ought to tell the House how at any rate at the present moment my mind is working as regards general insurance companies. When a question arises will you or will you not put a restriction on general insurance companies ? It strikes me in this way that Indian companies have made considerable progress, though not as much as I would have desired, in the business of life insurance. We have every hope and every reason to believe that this progress will be maintained and that this Act will lead to the keeping up of this progress. As regards fire insurance we have just got a foothold ; though nothing worth speaking about. In 'marine' our interest is practically notional. But I have hopes, apart from progress in fire insurance, that if business is run properly, Indian business talent ought to have scope in connection with a kind of insurance

[Sir Nripendra Sircar.]

which is multiplying fast,—I mean accident and motor-car insurances. Although we may not be now in a hopeless position yet within a few years we ought to have appreciable voice in accident insurance. If that is so, the point of view to be considered is this. We have got to consider whether by putting restrictions, *e.g.*, by providing that this new accident insurance company, started by Indians, will not pay more than 20 per cent. as commission. You will have to consider very carefully whether by putting such restrictions you are really controlling big, well-organised, well-administered, foreign companies with immense reserves. You will have to consider if you are hitting them or you are, by reason of these restrictions, putting difficulties in the way of the growth of new Indian ventures.

Foreign companies succeed on account of their established reputation, their experience, and their superior organisation. I am thoroughly unconvinced of any truth in the cry of "cut-throat foreign competition". That cry has been raised by big Bombay business, for raising a false issue. These are the considerations which have got to be balanced in the mind of each one of the Honourable Members before he comes to any conclusion. I beg of them to look at the matter from both points of view and not be too anxious to put restrictions or requirements which may hamper the growth of new Indian companies. Under the mistaken belief that you are downing the "Foreigner" I do not suggest that Indian companies should be allowed to proceed in any way they like regardless of consequences, and we have to arrive at a golden mean, which will, on the one hand, tighten the law and make it possible to have control by inspection and investigation and so on, for preventing business being run on unsound lines; and on the other hand, we may not make the law too tight which will operate as strangle-hold on these new Indian ventures which I hope will grow up and take reasonable share in the insurance business of this country. Fair play to Indian companies does not involve denial of justice or fair play to others.

Sir, there is one matter which I will mention because it may be said that I have paid no attention to representations made on that behalf. I am sure every Honourable Member here has got a large number of representations from people who call themselves field-workers, agents and so on. I am just mentioning this matter to avoid these hundreds of people who have made representations, forming the impression that their submissions have been ignored. They are people and they ought to have every sympathy from us, but I cannot help them. Their suggestion is (whether the facts are true or not I do not know, because after all they are *ex-parte* statements), and indeed they say that the big insurance companies deal with them in a most arbitrary manner. Their renewal premia are not paid; as soon as their usefulness is supposed to be extinct they are turned out without regard to the terms of the contract, and so on. As I said, while I have every sympathy, the legal position is this. Either what the Insurance companies have done amounts to a breach of contract as between the companies and their humble servants, or it did not. If what they have done amounted to a breach of contract, then the remedy was open; the insuring company could have been sued in court. How are we going to make provisions that every insurance company must do this or must do that? I may say, that these suggestions, prompted no doubt, by the best of motives, out of kindness to those humble people who



work in big offices, are not practicable. For instance, I know one suggestion which was made, and it was backed by an Honourable Member of this House. The suggestion was that we should lay down in this Act that the clerks in insurance offices must be paid at the rate of Rs. 40 rising to Rs. 100, there must be a provident fund, and so on. But can we possibly adopt all these impracticable suggestions? That must, after all, be left to the law of contract, and it will serve no useful purpose to try legislation which will be absolutely futile.....

**Maulana Zafar Ali Khan** (East Central Punjab : Muhammadan) : Then how to protect these interests?

**The Honourable Sir Nripendra Sircar** : I am waiting for a suggestion from my friend as to how they should be protected. I am at my wits' ends.

**Mr. N. M. Joshi** : Give power to the Superintendent to regulate the conditions.

**The Honourable Sir Nripendra Sircar** : I am quite sure that if my friend is appointed the Superintendent, the Capitalist won't get anything in the way of profit, and every piece will be paid to workmen.

I am afraid, Sir, I have taken more time than I intended, but before resuming my seat, I should state that this Bill involves very vital interests of Indian business concerns. It is not a question of politics here, or the Government fighting the Opposition or the Opposition fighting the Government. In the Select Committee, every one, I can honestly say, tried his level best to improve the Bill, and although one may not agree always as to what is improvement and what is retrogression, I have not the slightest doubt that, when this Bill emerges from this House, it will really be in an improved form and that we shall have a legislation which will be all to the good for Insurance business—a business, which I hope more and more will in future be in Indian hands. (Applause.)

**Mr. Akhil Chandra Datta** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I rise to support the motion for the consideration of the Bill, as reported by the Select Committee. The Bill can be divided into two parts. There are some provisions relating to the control by Government and some provisions for publicity. These are the two distinct sets of provisions which have been made in the Bill. So far as the provisions for publicity are concerned, I shall say at once that they have my whole-hearted support. They are intended to safeguard the interests of the policy holders, and I have no doubt we shall be able to achieve the desired object. I shall not go into the details of those provisions at present.

As regards the other part of the Bill, namely, providing for the control of the Government, I certainly do not feel very happy over it. My submission is that the provisions have gone too far in the way of interference by Government, and I must enter my strong protest against those provisions. Before examining the detailed provisions of the Bill, we have to consider what should be the basic principle of the Bill? As is well-known, there are two well-known principles on this question,—one is “minimum of interference and maximum of publicity”. That is known as the English system, and the other system is,

[Mr. Akhil Chandra Datta.]

“direct control” by the Government of the whole business, and this is known as the Canadian system. The question is, which system are we going to adopt? It is necessary, before examining the detailed provisions of the Bill, that we should make up our minds once and for all as to what the basic principle of the Bill should be. Interference there must be; even the English system contemplates some amount of control; but the essential question is what should be the extent of that interference, how far that interference and control should go. Now, Sir, there is a radical distinction between these two principles of law. What is the rule, what is the principle that we are going to follow in this Bill? Before going into details,—I see my friend Mr. Sen is looking at me,—I may say at once that although he professes to follow the English system, in reality he has adopted the Canadian system. What is the principle now in operation, and what is it in this Bill? The present Act of 1912, I need hardly say adopted the English law of minimum interference with the maximum of publicity. The contrary view was urged at that time. It was apprehended by some that in the absence of stringent provisions for the control of the activities of insurance companies, there might be abuse, there might be wrong investments made and so on. The question was discussed at great length as to which of these two principles should be accepted, and we all know that the Canadian system was rejected and the English system was adopted. And it was adopted not only by the Legislature but it was adopted even by the Government. Amendments, which were actually moved by some representatives of commerce that more stringent provisions should be adopted on the lines of the Canadian system, were rejected not only by the Legislature but also by the Government. The result was that those amendments were rejected and English principle was adopted in its entirety.

**The Honourable Sir Nripendra Sircar :** They are very fond of the English in 1937.

**Mr. Akhil Chandra Datta :** Much water has flowed down the Ganges 3 P.M. or Jumna since 1912. At all events, the Honourable Member in charge of the Bill wants to make State control far more strict and far more stringent than the Law Member of 1912 wanted to do. There is no doubt about that, but whether that is reasonable or not, whether that is necessary or not in the light of experience of this quarter of a century, that is quite another question to which I shall address myself presently. But I take it that there can be no manner of doubt that we are going to have a radical change of policy in the year of grace 1937, quite different from the principle that was finally adopted by the Government and the Legislature in 1912. A Bill was introduced in 1925 amending the Act of 1912. The question was re-opened on that occasion as to whether the same principle ought to be followed, namely, the English principle, or whether the Canadian principle ought to be preferred. The question was considered by the Government and on that occasion the Government again rejected the Canadian system and accepted the English system for the second time.

**The Honourable Sir Nripendra Sircar :** If you follow the law of 1912, then we shall have no control over foreign companies.

**Mr. Akhil Chandra Datta :** I shall come to that point later on. The working of the Act of 1912 from 1912 to 1925 was gone into, figures were examined as to whether there had been abuses or not, how the investments had been made by the different insurance companies. After consideration of the figures and all the other relevant materials the Government again came to the conclusion that there was no justification for any increase of Government interference. The question before us is, has any case been made out for a change of policy now in 1937 ? The point that is urged is that, although in England there is a policy of minimum interference and maximum of publicity, it does not hold good in the peculiar circumstances of India where we have got no enlightened public opinion, where people are ignorant and indifferent and do not examine the actual position of the different insurance companies. They say that in view of that state of things, although non-interference is a good rule for England, it is not good for India. In that view of the matter it is necessary to examine and compare the position in 1912 and 1937. My submission is that since 1912, the position has very materially altered. Now public opinion is very strong ; there has been a considerable growth of public opinion with regard to insurance business in this country. We have got now insurance journals, so many have recently come into existence.

**The Honourable Sir Nripendra Sircar :** Too many.

**Mr. Akhil Chandra Datta :** For educating public opinion, the more journals the merrier. I do not think that it can be said that these insurance journals are not doing great service. What do they do ?

**Pandit Lakshmi Kanta Maitra :** Confuse us.

**Mr. Akhil Chandra Datta :** They confuse you ? If you choose to be confounded, who can help ? They honestly try to place before you the actual position of the different companies, how they work, what their capital is, how they invest the monies, what is the bonus they give and so on. They try to give the figures and throw light upon all these questions. If in the result you choose to become confounded, well, I can only be sorry for you. The whole question is whether the public are on the alert, and whether there is a strong public opinion. On that question it must be admitted that these insurance journals are doing a great service. Then we have got Insurance Associations, provincial and all-India associations. They meet and discuss general principles and also about investments and other things adopted by individual companies. Then there are the Chambers of Commerce of the different provinces and also the all-India Chambers of Commerce. They also deal with these matters and try to educate public opinion. I find in my part of the country there is one paper at least, the *Anand Bazar Patrika*—in which from week to week, if not from day to day, we have articles discussing the general principles of insurance and how things are managed by individual companies.

**The Honourable Sir Nripendra Sircar :** Is it supported by the managing agents ?

**Mr. Akhil Chandra Datta :** With regard to managing agents, I may assure the Honourable the Law Member that I have got almost the same mania as he has got.

**Mr. Bhulabhai J. Desai** (Bombay Northern Division : Non-Muhamadan Rural) : It is getting infectious !

**Mr. Akhil Chandra Datta** : Let me tell the House what Mr. Sen's opinion is. He has told us on page 8 of his Report :

“ It must be said to the credit of dozen or so of insurance journals which have come into existence in recent years that there is a genuine attempt to educate public opinion in insurance matters. It must also be admitted as a result of their publications and the frank criticisms which are now made of the affairs of the various insurance companies a certain amount of interest has been created in matters of insurance, and the tone of insurance business has been considerably improved.”

I would invite the special attention of the House to the considered opinion of Mr. Sen that the whole tone of insurance has been considerably improved. It has not only not deteriorated, but on the other hand, it has improved and improved considerably. That is the considered verdict of Mr. Sen.

**Mr. Sen** further says :

“ The times are not far off when publicity in India will as in England serve the useful purpose of preventing abuses in insurance business in this country.”

Now, Sir, I am anxious to invite the attention of the House to this aspect of the matter. Not only things have not grown worse since 1912, but things have improved. We have now got a public who are more familiar with these things, more on the alert and therefore my submission is that there is absolutely no justification for a change of policy.

**Mr. S. Satyamurti** : So, there is no need of legislation in this country ?

**Mr. Akhil Chandra Datta** : My Honourable friend, Mr. Satyamurti, has not understood me at all. When I say that there should not be a radical change of policy, it does not follow that I do not want this legislation at all. I have stated at the outset that there are provisions which I do welcome. After that, it does not lie in the mouth of Mr. Satyamurti to ask me whether there is any need for legislation. It is only a question of degrees of interference. As regards the Bill of 1925, it was dropped because there was a committee appointed in England at that time to consider the whole legislation in England. The English law was enacted in 1909 and our Act of 1912 was based on the provisions of the English Act of 1909. Although the Bill was introduced in our Assembly in 1925, it was not proceeded with because they wanted to await the deliberations of the Clauson Committee. We know now what the principle underlying the Bill of that committee is because as a matter of fact the Clauson Committee not only submitted a report but they also drafted a Bill. We know that in that draft Bill of the Clauson Committee the English system of minimum interference was adopted in preference to direct control by Government. Although we were waiting for the report of the Clauson Committee, now it is proposed to brush aside the views and opinions expressed and propounded in the report of that committee and in the Bill that was drafted by that committee. My suggestion is that no case is made out for giving more power to the Government after quarter of a century. There is a fundamental difference between India and those countries in which the policy of actual direct control has been adopted. After all,

those are free countries and there the control by the Government is really control by the people. Insurance is a Central subject. It is for my friend, Mr. Sri Prakasa, to make up his mind as to whether he should give more powers of control and interference to the coming Federal Government than the control which is now being exercised with regard to insurance business.

**The Honourable Sir Nripendra Sircar :** There is no control now.

**Mr. Akhil Chandra Datta :** That is exactly my point. At present there is no control with regard to investment. What is proposed is from a policy of absolute freedom there is to be absolute compulsion. So far as clause 26 of the Bill is concerned, and so far as the particular question of investment is concerned, the doctrine of absolute compulsion has been adopted by the Select Committee. Is there really a case made out for going from one extreme to the other extreme. For instance, with regard to investment, there is to be a drastic change, a revolutionary change from absolute freedom to absolute compulsion. Is there any justification for that change of policy? My friend Mr. Satyamurti is in favour of severe control of investments by the Government. I do not know whether the control that has been suggested in clause 26 is due to his intervention. In the year of grace, 1937, being a Congressman, I cannot imagine how he can advocate such absolute powers for the Government. There must have been somebody in the Select Committee who propounded this absolute restriction. I was in the Select Committee but unfortunately I was held up in Europe and could not attend. Somebody in the Select Committee has been responsible for this drastic and absurd provision put in in clause 26 of the Bill. Besides with regard to the State control, we have got to remember that the control of the Legislature does not go far enough. It is only the law that is enacted by the Legislature but the actual interference, if any, will be made by the executive. That machinery has been supplied in the shape of the Superintendent of Insurance. I do not know whether he will be an Englishman or whether he will be recruited from South Africa or whether he will be an I. C. S. At all events, this is perfectly clear that he is going to be an arch-dictator.

**Mr. B. Das :** He will be controlled by the Minister of Commerce.

**Mr. Akhil Chandra Datta :** We know the real value of that. The Superintendent of Police is always under the control of the District Magistrate. Now, Sir, my submission is this. The institution of a Superintendent of Insurance with all sorts of powers and the control that is proposed in this Bill is really an anachronism in the year 1937. I know that this Bill is a measure of economy and I am grateful to the Honourable the Law Member for emphasising this aspect.

**Mr. M. S. Aney :** We cannot hear anything on this side.

**Dr. P. N. Banerjee** (Calcutta Suburbs : Non-Muhammadan Urban) : I will ask my Honourable friend to address the House and not Mr. Satyamurti.

**Mr. Akhil Chandra Datta :** I am addressing Mr. Satyamurti, because he is one of the most important parts of the whole machinery.

Now, Sir, although there should be no political considerations with regard to this Bill, yet in this unfortunate country politics do come in. For instance, if you give so much power and so much control to the

[Mr. Akhil Chandra Datta.]

Superintendent of Insurance, you can well imagine a certain insurance company of which the managing director or the directors are persons whose political views and activities are not very much acceptable to the executive or to the Superintendent of Insurance. In that case, the interference and the control are likely to be a little too much. Now, Sir, if you have too much control and too much interference, this may be one step towards nationalisation. What is the case of those who want so much control? Their case is that there are abuses which require remedies. But what are those abuses? Is there any system in any human institution which is free from abuses? It is said that some companies have failed. Is there any country in which companies have not failed? After all, we have not given the figures as regards the failures of the companies in this country? My own impression, as far as I have been able to gather, is that there have not been too many failures of the Insurance companies in this country. Then, it is said, that some of them, although they are not dead, are in a moribund condition and that they are not financially sound. This may be so with regard to certain companies. I shall admit that it is a fact with regard to some companies. But the question is not whether they are not in a sound condition but the question is : what is their unsound position due to? Is it due to absence of control or some other thing? As regards the unsound financial position of some insurance companies, may I ask what is the position of the railways? What is the position of the Provincial Governments? Are they very sound financially? What is the position of the Central Government financially? Because a few companies whose number can be counted on fingers are financially unsound, the conclusion therefore is that we must have a State control of any degree. I should think that there is certainly a danger of unnecessary harassment even to sound companies. The real question is : Should we have too much interference in the internal management of the companies? Another test should be this : Whether any particular provision in the Bill will develop or hamper the growth of insurance business, whether they will kill new and small companies? A company does not deserve to die merely because it is small. That is the whole point. Therefore, the question for this Honourable House to decide is whether the Bill now before us is an English Bill or a Canadian Bill? It is more Canadian than English. Therefore, my complaint is that professing to make it English Mr. Sen has made it Canadian. I must admit that I love the English system so far as this particular question is concerned for the simple reason that it discountenances excessive Government control. I cannot congratulate the Select Committee for providing for excessive Government control.

**The Honourable Sir Nripendra Sircar :** You were absent.

**Mr. Akhil Chandra Datta :** Because I was absent, I did not catch the contagion. I might have voted for this provision also. But now I am in a better atmosphere. My submission is that some of the changes introduced by the Select Committee are more objectionable than the original provisions in the Bill. Some of them are most retrograde and reactionary. The control that has been proposed in the Bill is excessive. In support of my contention, may I invite the attention of the House to the leading features of State control. This control is

exercised mainly by regulating the investment of the funds, by the issue of licences and by limitation of commissions. These are the different ways in which the control is exercised. So far as the question of investment is concerned, what is the actual position? In the Act of 1912, there were no restrictions. In that Act there was an apprehension in certain sections that with restrictions on the power of investment, there might be abuse, but that view was rejected, as I have already submitted both by the Government and by the Legislature. On that occasion, after due deliberation the Government rejected the proposal for restrictions regarding investment on the ground that it would violate the English principle on the subject. That was the definite ground upon which it was rejected.

We then come to 1925. I have already dealt with that aspect of the question. No restriction was proposed in the Act of 1925 after reviewing the figures and statistics about investment. Now about the position subsequent to 1925, up to the end of 1933, we are grateful to Mr. Sen for giving us the figures with regard to investment during that period. From the figures he has given it is perfectly clear that 75 per cent. of the funds had been invested by the companies in Government and trust securities. In other words, the position was as satisfactory as it was in 1925. From 1912 to 1935 we have got the experience of nearly a quarter of a century as to the actual working of the companies and the result is that we are told by Mr. Sen that about 75 per cent. of the funds without any State intervention, without any interference, on their own initiative, according to their own light, they invested in Government and trust securities. In view of these figures, the question now is, is there any case made out for a change of policy that there should be restriction about investment. I do not think it would be anybody's contention that after 1933, that is in the years 1934 to 1937, there have been bad investments by the Insurance Companies. Let us see if Mr. Sen thinks that a case has been made out for a change of policy with regard to investment, whether any case is made out for restrictions with regard to the power of investment. On page 28 of his report Mr. Sen says :

“ The matter was considered next in 1924 by the Government of India when they took up the question of insurance legislation, and the figures available at the time showed that so far as the Indian life insurance companies were concerned, a substantial portion of their funds was invested in Government and trust securities. Though it was found that some companies, especially one in the Punjab and one in Bengal, had deviated from this practice and had invested most of their funds in doubtful securities, yet having regard to the figures the Government of India was definitely of opinion that no restrictions were necessary and in the Bill which was drafted in 1925 no such provision was made.”

That is what appears from the report of Mr. Sen. I am anxious to invite the attention of the House to this that having regard to the figures the Government of India were definitely of opinion.....

**An Honourable Member :** Is that Mr. Sen's opinion or the opinion of the Government of India ?

**Mr. Akhil Chandra Datta :** The Government of India are definitely of opinion—and that makes my case stronger—that no restrictions were necessary and in the Bill, which was drafted in 1925, no such provision was as a matter of fact inserted. He also tells us that as a result of 20 years

[Mr. Akhil Chandra Datta.]

working, it has been sufficiently demonstrated that there is no warrant for the suspicion that was voiced in the Council in 1912 and that no case for the restriction has been made out. It is also pointed out that this system has worked very satisfactorily in England and that there is no ground for any statutory interference. Mr. Sen further says :

“ Although I am not prepared to say that a strong case has been made out of legislative interference, it would in my opinion be harmless if the statute provides that a reasonable portion of the funds of every insurance company should be kept invested in gilt edged securities.”

That is his halting and half-hearted recommendation. He puts his case like this. In the first place, he proposes restriction regarding a portion of the funds, and in the second place he says, such restriction will not do any harm. He does not say it is necessary, he does not say it will do any good, he only says it will not do any harm. That is the recommendation in support of a clear change of policy on this very important question.

**The Honourable Sir Nripendra Sircar :** He has changed his mind now.

**Mr. Akhil Chandra Datta :** Obviously he has become wiser by inspiration from the Law Member. So far as the actual recommendation is concerned, he does not propose a drastic change. In all fairness to him, I must admit that his recommendation was not of a very drastic character or revolutionary character like that of the Select Committee. His recommendation was that 40 per cent. of the funds should be invested in government securities and 20 per cent. in trust securities. That was all his recommendation and not almost the totality of the assets as we have in clause 26. The Honourable the Leader of the Opposition says that it is a mad scheme, the scheme propounded in clause 26. I am glad to have that assurance.

The highest claim of the advocates of statutory restriction is that a portion of the assets should be invested in Government and trust securities. That was also the recommendation of the Banking Enquiry Committee. I have been asked by my friends on this side what my proposal is. Although I am personally inclined to think that there should be no departure from the law as it now exists with regard to investment, still in view of the atmosphere that has been created if I now plead for total absence of restriction I may be hooted out. So I will not plead for total absence of it, and I am for a compromise. I am prepared to go as far as Mr. Sen went, as far as the Banking Enquiry Committee went or as far as the Honourable the Law Member asked us to go in his Bill on this question. I will say frankly that I am quite prepared to go back to the original provision of the Bill. I am quite prepared to accept even the recommendation of Mr. Sen. But the pill that is given in clause 26 is too bitter to swallow. The exact proportion is a matter of detail ; it may be 30 per cent. or 33-1/3rd per cent. or even a little more.

Sir, another instance of State control is the limitation of commission. I offer my sincere congratulations to the Select Committee on the deletion of this provision altogether, and, therefore, we need not discuss it at any length at this stage. I shall only submit that it is unscientific and



unpractical, and specially unsuitable in the case of life insurance companies. I shall not detain the House on that point, as it is now a dead issue.

There is another mode of control, viz., the issuing of licenses to agents. It is a controversial point, but I shall say at once that I am not in favour of issue of licenses ; it is not English.

**The Honourable Sir Nripendra Sircar :** That does not matter.

**Mr. Akhil Chandra Datta :** It does matter because you profess to follow the English law. I shall take liberty of quoting the view of the Clauson Committee on this question :

“ The evidence before them appear to them quite insufficient to justify any compulsory registration or licenses for insurance agents, and no practical scheme for insuring the proposed restriction as to sharing commission and as to preventing differentiation was placed before them. The Committee desire to make it clear that they are not satisfied that even if a practical scheme for achieving these ends be devised, there is any need for it in the interest either of the public or of the companies.”

That was the view of the Committee. Besides, how is it proposed to make it effective ? The only provision that I have seen is clause 37. Sub-clause 5 of clause 37 lays down that if an agent is found guilty by a civil or criminal court of misappropriation or breach of trust or cheating, etc., he will be dismissed. I cannot imagine any insurance company, which in the face of such a finding will still retain that agent in service. Let us, however, see what Mr. Sen's recommendation is. He says at page 66,—(again it is halting and half-hearted) :

“ In my opinion so long as the legislation does not interfere with the carrying on of an agent's business in a legitimate way, no harm is likely to be caused,” etc.

Again that old formula, “ no harm ”, etc.

It is said that faint praise is really tantamount to condemnation. Therefore I say that even according to Mr. Sen the issuing of licenses is not necessary.

Having protested against these restrictions I am afraid I may be misunderstood. But I have already said that I whole-heartedly support those provisions of the Bill which are intended to give publicity to the activities of insurance companies. Lest I should be misunderstood,—I am afraid I have been misunderstood already by my Honourable friend, Mr. Satyamurti,—I must say I welcome many provisions of the Bill. There was no law in India up till now for insurance business other than life insurance, but the proposed law is sought to be extended to all varieties of insurance business. That is welcome. The amount of deposit has been increased. I welcome it because it will prevent the growth of mushroom companies. I also welcome the provision which makes the deposit the exclusive property of the policyholders. That is a welcome change. I also welcome the fuller information that is now required by the provisions of this Bill with regard to the inner working of the companies. I also welcome the principle that the assets of foreign companies should be kept in India.

**The Honourable Sir Nripendra Sircar :** That is not English.

**Mr. Akhil Chandra Datta :** Sometimes the Canadians also have their good points.

Then, Sir, the provisions for returns by Indian and non-Indian companies are also welcome. Nominations by policyholders are quite welcome. The representation of policyholders in the Board of Directors is quite welcome. There has been some attempt made for the protection of Indian insurance business. I have no specific suggestion to make at the present moment but I think the protection given is rather inadequate. We have already adopted the policy of protection. Here is an industry which has made phenomenal progress during these few years without any State aid, and, therefore, I do think that some amount of protection ought to be given to the Indian companies. In this connection I have got one suggestion to make, and I am very keen about it. It is a matter by which some help can be given to Indian companies without evoking any reasonable criticism. Mr. Bhulabhai Desai and his friends say this in their minute of dissent. "Finally, we are definitely of opinion that the Bill should provide for insurance with Indian companies of the property of Central and Provincial Governments as well as to those belonging to protected industries". And here I have only to add, the Bill should also provide for insurance with Indian companies of the property of municipalities and other institutions which receive aid from the Government.

Then, Sir, before resuming my seat, I must express my thanks to the Honourable the Law Member for the view he has propounded, namely, that although there must be provisions for correcting abuses, we should not make such provisions which would kill the young companies. A company must necessarily be small in the beginning, but it does not necessarily follow that it is unsound. We should not cure the disease by killing the patient. That ought to be the principle, and I have no doubt that the Honourable the Law Member will give his attention to this. With these words, Sir, I support the motion, and I give the Bill my blessings, although not unmixed.

**Sir Leslie Hudson (Bombay : European) :** Sir, I believe it was one of the more eminent thinkers of the 19th century, a gentleman from Scotland, Thomas Carlyle, who expressed the hope that the English would long maintain their great talent for silence, and much as I should have preferred to have been a living demonstration of that hope, I have found, since I have been a Member of this House, that I am sometimes expected by those I represent to contribute what I can to the deliberations in this place. But I have always endeavoured on those occasions to address myself as directly as I can to the immediate issues and to be as brief as possible, and I shall observe those principles today.

I have no intention of making a long speech covering all the points, contentious and otherwise, that arise from this Bill. There will be plenty of time to deal with the more specific points when the clauses come on for consideration, and indeed, I imagine that much of what we shall be hearing in the immediate future in this Legislature can only be a repetition of what we most of us have read already in the mass of literature on this Bill which has been distributed through the press and through the post office with a prodigality that may well constitute a record even for India.

Sir, the Group for whom I speak have, in common with other parties, had before them the Bill as it has come to us from the Select Committee,

and in spite of considerable modification, it still bears a clear imprint of the thought and attention which have been given to it by the Honourable the Law Member and his lieutenant, Mr. Sushil Sen. I hope that by the time we have finished with it, that imprint will still be apparent and recognisable as it is today. Having said this, however, I should be lacking in candour if I did not add that there are a number of alterations which the Select Committee have made, and which we regret ; alterations which we consider to be unsound and with which we are unable to agree. Those changes made by the Committee from which we have felt it necessary to express our dissent we shall hope to see remedied later on, but, however disappointed we may be with some of the decisions of the Committee, we feel that, given the goodwill of this House, the Bill is capable of being moulded into a measure that will meet the objects and reasons which the Honourable the Law Member, with his customary lucidity, set out in the statement which he attached to the Original Bill last January.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Akhil Chandra Datta).]

When I spoke on this Bill last February, I used these words. I said : "Our main consideration, and what ought, we believe, to be the main consideration of this House, is the interests of the insuring public". I used those words because I wanted to try, so far as I could, to keep the discussions on this important Bill on a level of plain business common sense in which we could examine such differences of opinion as may exist among us in an atmosphere free, so far as possible, from those political and party divisions which only darken counsel and may result, in a highly technical Bill of this kind, in unsound law. And from what I have heard and read since then, I feel it is necessary perhaps to make the same appeal today. If I may express those sentiments in another way, may I put it like this ; our first concern is to see that insurance policyholders are safeguarded, and the main reason why we are now engaged upon revising the law is to see that they are protected. It was never the intention of this Bill, as I understood it, to protect insurers or to give preference to any particular insurer or group of insurers over any other. We should indeed, in my judgment, be guilty of a serious abdication of the accepted responsibilities of a legislative body if, as a result of our deliberations, we produced a measure which, instead of confining itself within the strict limits of preventing the exploitation of the public by fraudulent or unsound insurers, would merely deprive the public of its undisputed right to continue to place its business with sound concerns of their own choice.

Sir, the business of insurance is world-wide in its ramifications, and I think it would be true to say that the fate of this Bill is being watched with just as much concern and interest overseas as it is in this country . . . .

**Mr. S. Satyamurti :** Why ?

**Sir Leslie Hudson :** I expect people overseas read the newspapers just as much as we do here.

**Mr. S. Satyamurti :** But they cannot exploit our country !

**Sir Leslie Hudson :** In those countries near at hand, for instance, Burma, Ceylon and East Africa, countries where Indian insurance companies have considerable interests, it is

[Sir Leslie Hudson.]

being watched with special concern. These are countries which are more or less contiguous to India where expansion of business for Indian companies offers excellent possibilities. What happens in regard to this Bill in this House will not be without its influence on whatever insurance legislation may be undertaken in those places. We should remember that the indigenous company in our Bill will be the non-indigenous company in the legislation of those countries and the repercussions of introducing onerous provisions or provisions that interfere with free and normal operation of sound insurance principles into what we enact should be borne very carefully in mind by those who have the interests of indigenous enterprise at heart. It is of the essence of sound insurance that the risks accepted by an insurer should be spread over as wide and diverse an area as possible, and this is particularly true of this country exposed as it is to sudden and overwhelming catastrophes, such as earthquake, conflagration and cyclone. I may perhaps give an instance of what I mean by that. In 1919 the Jute Districts of Bengal were swept by a particularly fierce cyclone. The havoc wrought by that cyclone cost non-Indian insurance companies close on half a crore of rupees. They were able to bear that heavy expense because they had risks spread over other parts of the world, and were able immediately to draw on their world wide resources. The recent earthquakes in Bihar and Quetta are again only further instances of the incalculable magnitude of the risks involved in insurance in this country, and they demonstrate the necessity, if insurance in India is to prosper on sound and healthy lines, that those risks should be offset by other risks spread over other countries less prone to catastrophe. These general principles of sound insurance are accepted throughout the world, and, I believe, they are unchallengeable and the conclusion I draw from them in relation to this Bill is this. If you use this Bill for the purpose of erecting barriers to keep out the non-Indian insurer, you also, at the same time, erect barriers which will effectively prevent Indian insurers from going overseas to spread the risks which they will have to carry in this country. In this connection, may I remind the House that there are twenty-four Indian companies transacting classes of insurance business other than life insurance, and the figures available in the Indian Insurance Book of 1935 show that in the financial year immediately previous their total premium income amounted to one crore and 43 lakhs of rupees. Of that income the business in India accounted for 54 lakhs and the business outside India to nearly 89 lakhs. If the Indian insurance industry is to be strengthened this healthy and satisfactory development must be encouraged and it would be a pity if obstacles were placed in the way of its development. Nothing can harm the growth of Indian insurance enterprise or shake the confidence of the public in Indian insurers more than failure to meet heavy claims when they come, and the evil of the kind of discrimination to which I have referred is that it may produce that result.

**Mr. S. Satyamurti :** No.

**Sir Leslie Hudson :** I said, " may ".

**Mr. S. Satyamurti :** It won't, I assure you.

**Sir Leslie Hudson :** We do no good by ignoring the facts, and before I leave this point I want to make one further observation. The record of non-Indian insurers in this country is not one for which I feel it necessary

to apologise. They have carried heavy risks and honoured the claims of their Indian business when they became due.

If I were asked to sum up the general attitude which the European Group have adopted throughout, on this matter, I would do it in this way. We believe that all insurers should have a fair field and no favour in the conduct of their business, and should be free to conduct it in a way that the public may have every satisfaction that its interests are safeguarded. It will be our endeavour to avoid putting forward the case of purely sectional interests if those sectional interests are in conflict with the clear interests of public policy, and we shall be guided by those general principles in the consideration of this Bill today.

Our attitude towards the particular provisions of the Bill is briefly indicated in the Memorandum submitted to the Government by the Insurance Legislation Joint Committee which has been published in the printed opinions circulated to Honourable Members. The business of insurance is of a very special and highly technical nature, and in examining that Memorandum and satisfying ourselves that it conforms to those general principles to which I have drawn attention, we have drawn freely on the expert experience, advice and opinion that has been available to us. That Memorandum was drawn up with due regard to the recommendations contained in the Clauson draft Bill, and, I believe, it is generally admitted among the Insurance Community that the Clauson Bill is the modern text book of insurance legislation.

What we shall strive to secure is a measure of control by Government which will necessitate sound accountancy, the conduct of business on proper lines, and yet leave the development in the hands of those who, by their training and knowledge, are able to deal with the problems which arise without being too confined by restrictive legislation. That measure of control, however, should not be allowed to degenerate into mere harassment, for no good purpose is served by hampering the operations of sound insurers.

The business of insurance is still in its infancy in this country. There are possibilities of enormous expansion, for only a fraction of the population are policyholders. But that expansion must take place on sound lines. If I may quote the words of Pandit Jawahar Lal Nehru—words used in a special reference to the insurance industry :

“ We must build our Swadeshi industry on the rock of efficiency and not merely on sentiment.”

That is a dictum which no one disputes, certainly not on this side of the House.

**Mr. S. Satyamurti :** Clear out then ! We will build it up.

**Sir Leslie Hudson :** I have dealt today with some of the more general matters in relation to this Bill which have been engaging so much of public attention, and I have thought it desirable at the outset of our discussions to indicate to the House the very broad views we hold on those matters. We shall, during the next few days, table a number of amendments to certain clauses of the Bill. We shall put in those amendments in a desire to make a constructive contribution towards improving the Bill which we believe is directed towards fulfilling a good purpose and in that sense I support the motion moved by the Honourable the Law Member.

**Mr. George Joseph** (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Mr. Deputy President, it has fallen to me to make what is usually called a maiden speech in connection with a Bill of such complexity and importance and therefore I hope I shall be justified in claiming a special degree of indulgence and patience and kindness from the House. I am inclined to agree, Sir, with the observations you made and the complaint that this Insurance Bill, though professedly built on the doctrine of the minimum of interference and the maximum of publicity, really does not observe that principle. In that matter I sympathise with you and I rather agree with your position that the English doctrine that was adopted in the Act of 1912 was probably better but we are now concerned with a measure of 1937, when what may be called the old Victorian liberalism has been swept away from the councils of the political atmosphere of the world. We are moving, however regretful or unwise it may be, away from it and moving more and more towards a totalitarian conception where the State assumes more responsibility and feels that it must do more for the people than according to the old doctrines of Victorian liberalism. That seems to be the whole difficulty in contrasting the measure of 1912 with the Bill of 1937. Unfortunately for us today, the ordinary citizen is regarded as thoroughly helpless. He is regarded almost as a tame rabbit. It is the policy holders' interests that are being supported and maintained by the Government. Whether that reflection on the capacity of the ordinary citizen to take care of himself is right or not, that is a different question. I myself have got considerable doubts about it. But at any rate that is the atmosphere in which we are today and therefore dealing with an Insurance Act of 1937 we have got to assume that the ordinary policy holder is not able to help himself. The ordinary policy holder is not able to take care of his own interest on the basis of the contract which is ordinarily called a policy between the policy holder and the insurer.

The fundamental basis of this Bill as of any other Bill which would be produced in these times would be that the policy holder has got to be taken care of and that the Government must protect him. That is one of the fundamental assumptions of this Bill and secondly there is another assumption which the Honourable gentleman representing the European Group seems to have ignored.

The second fundamental assumption of this Bill is that while the policy holder is to be taken care of and prevented from being victimised by crafty or designing insurers or insurance agents it is possible for us to make ourselves in India self contained in the matter of insurance and therefore as far as possible keep the non-Indian insurer out of the picture. It is only to the extent that Sir Leslie Hudson has ignored that aspect of the matter, his speech, if I may say so with all respect, has missed the point. These two fundamental propositions have to be accepted. The policy holder has got to be protected and the Indian insurer must be permitted to develop his business in this country just as the European insurers develop their business in their own country and that they should have an opportunity of developing their own insurance business without an undue and unfair competition from other forms of insurance business which have been built up earlier than theirs. Therefore, unless we accept these two fundamental propositions, there is a real danger of missing the

purpose of this Bill. If you just look at the general scheme of the Bill you will see that there are a series of provisions for protecting the policy holders—the deposit question, the minimum of working capital and the way the money in the hands of the insurer should be invested, how the accounts should be kept and so on. All these things are conceived on the basis of this assumption that the policy holder must be protected by these and similar measures and these measures are absolutely necessary for his protection. The first thing, therefore, that should be accepted is that the policy holders' interest should really be maintained and taken care of and if that is accepted, nearly the whole of the criticism you, Sir, directed against this Bill is really beside the point. I am not now dealing with any special clause of the Bill as it has come out of the hands of the Select Committee, but there are certain broad aspects on which I think I may be justified in offering a few observations.

Now, Sir, I have already mentioned a number of provisions that have been made for the protection of the policy holders but I think there are just one or two points more to which the attention of the House may properly be drawn. There is just one thing which strikes me as being remarkable by its absence and omission. That is there is no limit put to the insurer's profits out of this insurance business. Now, this insurance business is rather a curious thing. The shareholder starts with a fairly small sum of money and by his experience and by his competence and by his honesty, he is able to inspire confidence. Various people come forward as policy holders, offer premia and in course of time nearly the largest position of an insurance company's money is really the policy holders' money. I was told of a remarkable instance of some companies starting with a fairly small sum of money. Today they offer dividends which amount to 1500 per cent. The prospect of being a shareholder in such a company must be a cheerful one and quite naturally no shareholder who gets such a handsome dividend will allow the share to slip out of his hands. That is perfectly natural and the one way in which the insurance companies and the insured have been compromising with their conscience is by the invention of the bonus system. They themselves are staggered at the magnitude of their profits and they really want to compromise with their conscience by offering what is called a bonus to the policy holder at the end of a working year or at the end of five years or whatever it may be. It is extremely creditable of them but it seems to me that once that proposition is recognised, some how or other we must really fix what might be regarded as a maximum reasonable dividend beyond which no shareholder should be allowed to take. What that figure should be is more than I can say. (*An Honourable Member* : "6 per cent.") I am not going to offer any suggestion. It is really for the House to decide. I am a lawyer by profession and I am not a business man in that sense. I really do not know what would be a proper figure, which may be regarded as a maximum figure. Well, I would certainly like that suggestion to be incorporated by a suitable amendment in the Bill.

Secondly, there is a clause in the Bill which provides for inspection. There is clause 28 of the Bill which deals with inspection. Now, the general substance of it is that it will be open to the Superintendent of Insurance to order an inspection of a particular insurance business if there is reason to suspect that that insurance business is not properly conducted or there is a risk of insolvency or there is a risk of a loss to the

[Mr. George Joseph.]

policy holders. Now, I do not like that clause for two reasons. In the first place, inspection should not be regarded as so abnormal a thing as is suggested in that clause. I would much rather prefer a scheme by which Inspectors under the Superintendent of Insurance will have the right to go to the office of any Insurance Company and there examine the books, examine the funds and examine the investments and should be in a position to make a report to the Superintendent. It should be regarded as one of the normal instances of an insurance company's life to see and examine all the books and see whether things are all right. Now, under clause 28 the very fact that the Superintendent has ordered an inspection raises a reflection or a suggestion that things are not quite all right. In the vast majority of cases I am quite satisfied that the insurance companies are being worked well and even when the Superintendent has decided to stay his hand, the mere fact that the inspection of an insurance company has been ordered by the Superintendent will really damage the reputation of that company whatever the final result may be. Most probably the result of the investigation may be that the affairs of the company are going on all right; the investments are all right, the accounts are all right. But even then, when it is found that an insurance company so and so has been ordered to be investigated by the Superintendent, it will have a fairly bad time. Even though it may come out with a clean sheet, there will be a kind of suspicion abroad that the Inspector has squared up the things which were not quite all right. I really do not want any kind of reflection to be left behind. I would much rather prefer a series of investigations to be conducted into the business of every insurance company. I am using the word "every" for this reason that it is for the Inspector himself to decide which insurance company he will examine and it must be done without notice. He must have absolute right to go and examine the company's affairs and make a report to the Superintendent whether things are right or wrong. If things are right, no harm is done. But if things are wrong, naturally the Superintendent will have the right to go to the court and so on. Clause 28, as it stands, imposes a burden on the insurance office. It is really a case in which the burden of proof is practically thrown on the insurance office to prove that things are perfectly right when they go to court. I do not know whether the insurance companies may be wicked or wise. In any case, they should not be burdened with a responsibility which nobody in the world can properly discharge when things are going on all right and yet somebody suspects that things are wrong.

Then, as for the powers of the Superintendents themselves. As I have said already, the Superintendent has powers and functions which are not confined to the policy holders. I quite sympathise with the suggestion that the powers of the Superintendent are so enormous that there is certainly a peril of those powers being exercised tyrannically. I myself should have considerable misgivings and searchings of the heart before I should have approved of it but for two reasons. One is my hope that in course of time the Superintendent will cease to be a Superintendent. He will probably become a member of the Board in which he will be advised by non-official members and by the representatives of the public. It may not be today but I am quite sure in course of time that is inevitable and it is bound to come about. Secondly, whatever the position



of the Government of India today may be, however irresponsible it may be, whatever complaints we may have against it, the signs of the times are obvious that that kind of position is not going to last indefinitely. There is bound to be a time when this Government will be responsible to this House and through this House to the electorate all over the country. Therefore, even though this looks to be fairly high degree of power to be vested in the Superintendent, I am reasonably certain that the time spirit will save the Superintendent from descending to the worst possible tyranny that he is likely to get into.

Then, I come to the second question, the question of making insurance, both life and other, as far as possible national. Now, today the Leader of the European Group pleaded for his people. We in this House have got the same right to meet our own people. About the controversy over clause 3-A. which was mentioned by the Honourable the Law Member in his opening speech I do not want to say anything. That is a difficult question. It is a question on which I am sure the leaders of my Party will give a proper guidance to their Party as well as to the House. Therefore, I do not want to say anything about it now. But there is just one thing which I must say. It is quite true that as things now stand you cannot discriminate against insurance people from the United Kingdom. I was just thinking of a solution. Supposing this insurance business is made a monopoly of the State,—whether Central or Provincial—then I am perfectly certain it would not be possible for any European to say that a European is being discriminated against as against an Indian. It may be quite open to the State to exercise that monopoly in different ways. It may have its own departments of running insurance. The Central Government may have its own Department and the Provincial Governments may have theirs. It is quite possible that just as in the case of the monopoly of spirits, the State might really issue licences to people who would compete in the open market for exercising this function of a monopoly. It may be a European or it may be an Indian, that does not matter. If it is an Indian company, I suppose they will have a fair field and have all the possible favour they can from their own people. I am prepared to recognise that. Finally, it will come to this. I quite recognise that today we are dealing only with this question but in course of time partly as a result of the sheer growth of insurance companies in this country, things will come to this pass that the State will have to take up the whole responsibility of insurance both in life and general, accident and motor cars and all the rest of it. That may be one way of getting rid of this discrimination against which the Government of India Act provides and to which the Honourable the Law Member drew our attention this morning.

**Mr. Bhulabhai J. Desai :** That is a better way : that is self-government.

**Mr. George Joseph :** Self-government there is. But I am now talking of the thing as it stands under the present Act. We have got to fight the present Act and when self-government comes the Act will automatically go away. But dealing with the situation as it stands today, and I do not know whether I will be within the compass of the Bill that has been introduced by the Honourable the Law Member, I would very seriously suggest that the possibility of the State taking up the monopoly of insurance may be considered. It may not be within its compass, but I really do not want

[Mr. George Joseph.]

to offer any very confident opinion about that. Therefore, Mr. Deputy President, these are the main considerations on the basis of which the whole Bill might be discussed and the decisions arrived at. From the point of view of the Party to which I have the honour to belong, on the whole we are in favour of this Bill being passed into law with such amendments as would be suggested at the proper time. With reference to the particular amendments that may be moved owing to difficulty or owing to nervousness, I am sure we shall deal with them in due time. There is just one matter which I should like to mention. It has not developed out of my argument so far. But I shall make a present of it both to my Leader and to the Honourable the Law Member and that is about the definition of 'Indian insurer'. The definition says :

“ ‘ Indian insurer ’ means an insurer three-fourths of whose paid up capital is held in their own right by British Indian subjects domiciled in India, and three-fourths of the members of whose governing body are British Indian subjects.”

Here I am not dealing with the serious, fanciful and perhaps sophistical difficulties raised by the Honourable the Law Member, but I should like both sides to consider whether the word “ British ” may not be omitted from that clause so that an Indian insurer may refer to all Indian subjects. I do not know whether there is any snag or any catch, but so far as I am concerned, there is none, but if there is any, I shall submit to the decision of the House. Mr. Deputy President, I thank you for giving me the opportunity of placing my views before the House.

**Dr. R. D. Dalal** (Nominated Non-Official) : Mr. Deputy President, the justification for my intervention in this debate is that I have been a medical examiner to the Oriental Life Assurance Company ; and I propose to deal with some of the general considerations of the Bill—the Bill to consolidate and amend the law relating to the business of insurance.

In the first place, I heartily congratulate the Honourable the Law Member on his clear, lucid and extraordinarily interesting exposition of the Bill, and on the prospect of securing the passage into law of this useful Bill ; and I hope that the success the Honourable Member is likely to achieve in this instance will be an encouragement to him to pursue his efforts on behalf of the public and Government, and to initiate legislation as to unemployment insurance, national health insurance, death duties Bill and so on, and to exercise the same energy and pertinacity....

**The Honourable Sir Nripendra Sircar** : Do you want me to stay here for ever !

**Dr. R. D. Dalal** : My Honourable friend, Mr. Susil Sen's report is a most valuable document on insurance, and perhaps the greatest compliment to Mr. Sen is the fact that this Bill is practically in accordance with his recommendations.

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions : Non-Muhamadan Rural) : Not at all.

**Dr. R. D. Dalal** : Sir, this Bill has many real merits—it will have the effect of quickly bringing to grief the unscrupulous promoter or speculator who seeks to exploit the illiterate and the unwary ; it will assist the public in discriminating between sound and unsound insurance companies ; and it will promote life insurance throughout the whole country.

The main justification for any amendment of insurance law must be the protection of the policy holder's rights. These rights must be safeguarded by all possible means, because the average policy holder is a person unversed in commercial matters, much less in the reading of balance sheets, and the life insurance policy frequently represents all the provision he has made for his family in the event of his death. The insurance company is an institution formed by businessmen under legal advice and directions. The company has ample means, money and ability to promote and to protect its interests. But the insured is an individual depending on himself and his meagre resources. He has his poor earnings of rather his savings to stand by ; so he expects Government and Legislature to frame the Bill and to make it such as will automatically protect his savings and his heirs when he is gone. Now-a-days the ideas and ideals of insurance are properly brought home to the large population of this country, and the population of India is slowly becoming more insurance minded. Now-a-days there is better appreciation of human life ; and slowly but steadily the idea is getting round that man has got an economic value just as a property has a value in terms of rupees and annas and pies. There is no other machinery invented by the genius of man to preserve this economic value than the institution of life insurance. In times of need people naturally turn to this great institution. Every year minors become majors ; and many people get into employment and industries. They are all potential life insurance policy holders, and that is why there is no such thing as a saturation point in the life insurance business. Life assurance is a wise precaution for every citizen. India is, however, still heavily underinsured as compared with other countries ; and if this Bill quickens the growing pace of its popularity by removing abuses, its great sponsor—the Honourable the Law Member will have performed a great public service. (Hear, hear.) In England, life insurance is encouraged by the grant of a rebate of income-tax, which is on the basis of half the standard rate. The effect of this is that one-eighth of the premium is paid by Government. It is very much in the interests of Government that this admirable form of saving should be encouraged. When endowment assurances mature, Government secures its share through taxation of the income derived from the investment of the proceeds ; so the generosity of Government is thus rewarded. Sir, the key-note of this Bill is maximum publicity, which will operate as a powerful safeguard against fraud, corruption and mis-management. The growth of this national institution has, unfortunately, become the breeding ground of certain evils. One of the evils is frivolous floatation of ill-equipped and under-capitalised mushroom companies, which by reason of their inherent weakness and inefficiency tend to bring their own ruin, and thereby threaten to bring the whole Indian insurance into disrepute, and to undermine the confidence of the public. The introduction of heavier statutory deposits, the minimum working capital, and the abolition of the managing agency system will eliminate the floatation of unsound companies. Full disclosure as to accounts, licensing of agents, and penalising of rebates will materially assist in regulating the business, which today has reached a stage which is really deplorable.

Sir, this Bill empowers the Superintendent of Insurance to step in if he has reason to believe that the security of an insurance enterprise is not all that it should be, to call to book any concern whose finance

[Dr. R. D. Dalal.]

does not merit the confidence of the public, and to call for information with the object of determining if the insurance enterprise is solvent or insolvent. If the company does not supply full information, the Superintendent of Insurance is authorised to take steps to investigate its affairs. The confidence of the public in well-managed insurance companies can only be confirmed by their readiness to face full publicity for their accounts and by their desire for maintenance of the best insurance practice. Government are fully alive to the fact that all interests should be given equal opportunity. To give any class of companies positive preference would be tantamount to commercial discrimination, which is contrary to the provisions of the Government of India Act, 1935. In this Bill all insurers, whether Indian or non-Indian, public or private companies, are treated in respect of all forms of Government control in exactly the same way; and no preference or privilege of any kind is granted to one which is refused to another. This Bill aims at minimising the chances of unfair competition between Indian and non-Indian companies by placing them in exactly the same position as regards registration, minimum working capital and statutory deposits. All are subject alike to the supervision of the Superintendent of Insurance. Sir, it should not be assumed that restrictive conditions upon the business of non-Indian companies would necessarily foster the growth of indigenous companies. When we remember that Great Britain has originated all forms of insurance, and has led the way in their practice, and has taken a leading part in the development of insurance throughout the world, it is particularly significant and noteworthy that legislature in the United Kingdom has abstained from any provision designed to hamper non-British companies, and free trade in this matter has assisted rather than hindered the development of British companies. Sir, in the operation of insurance business the principle of mutuality would be advantageous. It would consist in some restriction as to the limit of dividends to the shareholders, and some enhancement of benefits to policyholders. It is a matter of great importance that some representation should be given to the policyholders on the Boards of Directors, and I welcome the new clause 42. There should also be a provision that policies when issued should contain a complete schedule of surrender and paid-up values worked up, and it should not be open to the insurance companies to make any alterations afterwards. This Bill concedes the principle of reciprocity, under which foreign companies seeking business in India should be subjected to restrictions and disabilities which would be imposed upon Indian companies seeking business in their countries. In this connection I would point out that Japan does not encourage any insurance companies to enter Japan to do insurance business. Policyholders should have a prior claim on the funds of the insurance companies including deposits. These funds are accumulated from premiums. I emphasise this aspect of policyholders' interest, because the Bombay High Court has held that no such charge is contemplated by the Act of 1912, and that the heirs of the deceased policyholders rank with the ordinary creditors of the company in liquidation. Every sincere well-wisher of insurance enterprise will cordially welcome the provisions calculated to make it easier for claimants to secure payment of policy moneys on the death of a policyholder.

Now, Sir, I shall pass on to a very important point,—the managing agency system. Sir, there is no advantage in recalling the strife which attended the clause in the Indian Companies Bill in respect of the managing agency system, if it were not for the fact that the opposition, which the Honourable the Law Member then encountered, afforded him an opportunity of employing his talents of persuasion and of displaying qualities of courage, resilience and resource, which broke down all resistance. Sir, I must confess that I am not convinced as to the necessity for retaining the managing agency system in insurance business. In an industrial concern the managing agent has year after year to pledge his personal credit to finance it, but there is no such need in insurance business. Having regard to the nature of insurance business no financing arrangements are necessary. Insurance companies are investors of money and not borrowers of money. Under the Indian Companies Act, managing agency for banking companies is prohibited: Managing agents use their position to serve their own needs irrespective of the good of the parties they are serving, and they carry away a substantial portion of the profits which should reasonably be distributed amongst the policyholders and shareholders. In a great many instances the interest a managing agent secures on the terms of his agreement is entirely out of all proportion to the service he renders. He rarely devotes his whole time and attention to the affairs of the company. In many cases he is the managing agent of several concerns; so his time and attention and interest are naturally distributed over them all. Sometimes he takes only a sleeping interest in the actual management of the company which is left to men employed to manage it. The remuneration paid to the managing agent should be shown separately in accounts and not incorporated in general expenses as is at present done to hide the managing agent's interest and income.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

The commission paid to the managing agent is usually a percentage on the premium income, but life insurance companies earning increasing premium income may actually be accumulating loss. This fact may not be obvious in the case of the life insurance companies except by an actuarial valuation, which is usually made once in five years. Sir, it is not the intention of the Bill to cause any loss to any managing agent; it is, however, not the intention of the Bill to permit a managing agency agreement to become a gold mine at the expense of the policyholders and shareholders. For all these reasons I am strongly of the opinion that early abolition of the managing agency system, that is, on the expiry of three years from the commencement of the Act, is a salutary provision.

Sir, to prevent loss through inexpert management it would be salutary if the Act would provide for the establishment of a Bureau of Information, where persons interested in insurance could be instructed in the technique of the subject, and where statistics could be collected bearing on points which insurance, especially life insurance, has to take into account.

In the measures of control provided by the Act the actuary is all important, and the licensing of agents is a useful provision. An insurance agent is, so to say, the life-blood of a company. Upon the

[Dr. R. D. Dalal.]

proper conduct of his calling depends to a great extent the future of the company. It is he who is expected to maintain a high standard of insurance business. So questions relating to actuaries and agents must be considered. Sir, I urge the importance of specialised education on scientific lines for actuaries, agents, and those who desire to practise insurance, and I suggest that an Institute should be established on the lines of the Chartered Insurance Institute at Aldermanbury in London, which provides specialised education for those engaged in insurance as a profession, and which confers diplomas and grants certificates of proficiency in insurance.

Sir, one aspect of insurance activity, which is of great importance, concerns the question of medical examination for life insurance policies. There ought to be a systematic course of instruction in medical life insurance, so that the lives of persons, sent to medical men for examination, could be more correctly assessed. Instruction in medical life insurance might also assist in checking the irregular practices of unscrupulous insurance agents and even some unscrupulous medical men. Not all examiners for life insurance companies are medical men holding university qualifications. In many upcountry stations medical examination for life insurance has to be undertaken by lower grades of the medical service, which fact is responsible for wrong decision and perfunctory medical reports. Owing to inadequate knowledge and ignorance of medical examination for life insurance, many medical men fail to appreciate properly the actual quality of a life, so they are apt to arrive at wrong decisions and to submit perfunctory reports. These reports are unfair both to the insurance companies and to the insuring proponents, who are often wrongly loaded with an undeserving extra premium, or are even rejected on the strength of such unreliable reports. With a view to rectify this deplorable state of affairs, I would emphasise the urgent and imperative necessity for introducing a course of instruction in medical life insurance in medical colleges of the Indian Universities, and Medical Schools of the Colleges of Physicians and Surgeons, and for instituting post-graduate courses of instruction by a series of lectures by trained University lecturers for medical men engaged in private practice. The expenses incurred on these courses of instruction could be met by taking small admission fees and by contributions from various flourishing insurance companies. These suggestions would be fraught with substantial results. There would be a marked improvement in the cadre of medical examiners for life insurance companies, and, therefore, a very considerable saving in early claims, and it would also open up a new field for the employment of medical men as medical examiners to life insurance companies.

Now, Sir, I shall just say one word as regards Post Office Life Insurance Fund. It is said that Post Office Life Insurance Fund is competing with insurance companies in India, so Government should close this business. Let me relate very briefly the history of Post Office Life Insurance Fund. Post Office Life Insurance Fund was originally designed for post office and telegraph employees, and the limit of insurance was Rs. 4,000. Subsequently this fund was thrown open to all Government servants. The rise in prices and the consequent increase in salaries which followed the Great War, led to demands being

made by upper grades of Government servants to raise the value of policies to Rs. 10,000. In 1920 this demand was granted by Government. After some time the Secretary of State informed the Government of India that nothing should be allowed to prevent Government servants from obtaining the best possible benefit of Post Office Life Insurance Fund. So in 1932 the limit of insurance was raised to Rs. 20,000. Now, Sir, this Post Office Life Insurance Fund is an optional form of life insurance for Government servants only ; it is a legitimate State activity ; and it fills a definite role in enabling Government servants to make provision for themselves and their dependants. A study of occupational tables in the Census Report shows that Government servants form about one per cent. of the total population of India. The amount of insurance business done by Post Office Life Insurance Fund is a very small percentage of the total insurance business done by Indian and non-Indian Insurance Companies. For these reasons, I am strongly of the opinion that it is not in any way unfair for the State to run Post Office Life Insurance Fund for the benefit of Government servants.....

**Mr. N. M. Joshi :** Why not for others ?

**Dr. R. D. Dalal :** Now, Sir, I wish to refer to one important point only. It is a matter which, I think, will not brook any further delay. Sub-clause (1) (d) of clause 6 of this Bill fixes the amount of deposit for motor car insurance business. In this connection I submit that in view of the continued high rate of incidence of motor accidents on the road advantage should have been taken of this opportunity to include compulsory motor insurance within the scope of this comprehensive Bill. Although India has got the smallest number of motor vehicles in the world, so far as accidents are concerned, this country takes a high place as compared with other countries. The incidence of motor accidents in India is far in excess of that in any other country in the world. In India the rate of deaths per motor vehicle is the appalling figure—93 per 10,000 as compared with 59.4 in Italy, 30.6 in Great Britain, and 7.4 in New Zealand. This calls for drastic and expeditious legislative and administrative action.

Now, Sir, I shall bring my remarks to a close. This Bill is, in my opinion, an excellent consolidating and amending measure. It will place the whole insurance business in India, indigenous as well as foreign, on a sound footing ; and it will afford ample protection to the policyholders. A satisfactory feature of the Bill is the striking unanimity of opinion from all parts of India as to the urgent need for this consolidated insurance measure. This Bill is certainly an advance on the Act of 1912, and it will go a long way to check the evils and abuses that have crept into the insurance business, much to the detriment of the policyholders who entrust practically their lives' savings in the hands of insurance companies. This Bill has been long overdue, and I hope it will be brought into force as speedily as possible, because promptitude is essential to the success of the measure. I have great pleasure in giving my unqualified support to the Bill and to the motion to take the Select Committee's Report into consideration. (Applause.)

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 31st August, 1937.