

**BILL No. 4 OF 1937**  
**(Bill to Consolidate and Amend the Law Relating to the**  
**Business of Insurance)**

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**Amendments, Additions and Alterations**

**Suggested by**

**The Indian Insurance Legislation Committee**

**BOMBAY**

**1937**

**The Indian Insurance Legislation Committee**  
**51, Esplanade Road, Bombay.**

The Indian Insurance Legislation Committee were appointed at a Meeting of Indian Insurance representatives held in Bombay on the 31st day of May 1936 presided over by Sir Naoroji Saklatwala, Kt., C.I.E. The names of Insurance companies whose representatives attended the said meeting or who subsequently joined in the scheme are mentioned hereunder:

- |   |   |
|---|---|
| (1) The Oriental Life Insurance Company . . . . .           | Bombay                                  |
| (2) The New India Insurance Co. . . . .                     | "                                       |
| (3) The Vulcan Insurance Co. . . . .                        | "                                       |
| (4) The Bombay Mutual Life Insurance Society . . . . .      | "                                       |
| (5) The Jupiter General Insurance Co. . . . .               | "                                       |
| (6) The National Insurance Co, . . . . .                    | Calcutta                                |
| (7) The Hindusthan Co-operative Insurance Society . . . . . | "                                       |
| (8) The Industrial & Prudential Assurance Co. . . . .       | Bombay                                  |
| (9) The Lakshmi Insurance Co. . . . .                       | Lahore                                  |
| (10) The Bharat Insurance Co. . . . .                       | "                                       |
| (11) The Indian Mercantile Insurance Co. . . . .            | Bombay                                  |
| (12) The Western India Life Insurance Co. . . . .           | Satara                                  |
| (13) The Hindu Mutual Life Assurance Co. . . . .            | Calcutta                                |
| (14) The Universal Fire & General Insurance Co. . . . .     | Bombay                                  |
| (15) The Indian Globe Insurance Co. . . . .                 | "                                       |
| (16) The Andhra Insurance Co. . . . .                       | Machali-<br>patam (Mad-<br>dras Presy.) |
| (17) The Zenith Life Assurance Co. . . . .                  | Bombay                                  |
| (18) The Asian Assurance Co. . . . .                        | "                                       |
| (19) The East & West Insurance Co. . . . .                  | "                                       |
| (20) The Bombay Life Assurance Co. . . . .                  | "                                       |

## PERSONNEL OF THE COMMITTEE

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R. J. DUFF, Esqr.,  
New India Insurance Co., Ltd. } *Chairman*

H. E. JONES, Esqr.,  
The Oriental Government Security  
Life Assurance Co., Ltd.

PANDIT K. SANTANAM,  
The Lakshmi Insurance Co., Ltd.

K. S. R. IYER, Esqr.,  
The Jupiter General Insurance Co., Ltd.

J. P. DUTIA, Esqr.,  
The National Insurance Co., Ltd.

• L. S. VAIDYANATHAN, Esq.  
The Oriental Government Security  
Life Assurance Co., Ltd.

J. C. SETALVAD, Esqr.,  
The Vulcan Insurance Co., Ltd.

K. C. DESAI, Esqr.,  
The Industrial & Prudential  
Assurance Co., Ltd. } *Honorary  
Secretaries.*

Legal Adviser to the Committee.

MANGALDAS B. MEHTA, Esq., B.A., LL.B.,  
Solicitor High Court, Bombay.

Assistant Secretary to the Committee.

D. J. JOSHI, Esq., M.A.

*\*L. S. Vaidyanathan, Esq., was co-opted on the Committee in place of Mr. H. E. Jones, who left India.*

## INTRODUCTION.

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The Indian Insurance Legislation Committee was appointed at a meeting of Indian Insurance representatives held in Bombay on the 31st day of May 1936 presided over by Sir Naoroji Saklatwalla, Kt., C.I.E.

The Committee held a number of meetings at which they considered the different aspects of Insurance Legislation and came to certain conclusions thereon. In order that these conclusions might be properly understood by the public they were embodied in the draft Bill attached to their submission report dated 23rd October 1936. For the purposes of reference the said submission report is enclosed herewith.

The Government of India appointed a Committee with the Hon'ble Sir N. N. Sircar, K.C.S.I., Kt., Bar-at-Law, Law Member, Government of India, as Chairman, known as "the Insurance Law Advisory Committee" in or about October 1936.

The Indian Legislation Committee submitted two statements one by Mr. H. E. Jones, Manager of the Oriental Government Security Life Assurance Co. Ltd., and the other by Mr. R. J. Duff, General Manager of the New India Assurance Co. Ltd., on the subject of dumping and uneconomic competition by foreign insurance companies in India, to the Advisory Committee.

After the sittings of the Advisory Committee were over the Hon'ble Sir N. N. Sircar, K.C.S.I., Kt., Bar-at-law, Law Member, introduced in the Legislative Assembly a comprehensive bill now known as the Insurance Bill No.4 of 1937 which was circulated for public opinion.

After the Bill was referred to the Select Committee the Indian Legislation Committee considered carefully the detailed provisions of the bill and how far the various provisions in the bill required suitable amendments, additions and alterations.

The Indian Legislation Committee have considered the bill clause by clause and have suggested detailed amendments and alterations which will be found in the accompanying Memorandum. They adopted this method as the subject was somewhat technical.

It is not proposed in this introduction to deal with detailed examination of each and every amendment alteration or addition suggested in the Memorandum, but it is felt that certain general observations may be made here.

The interests of Indian Policyholders should be the first concern of any legislation relating to Insurance business in India. The Committee note with satisfaction that the Bill includes provisions for proper supervision, inspection and control of insurance companies to which no insurer can raise objection. The Insurance Companies doing general business are now brought within the purview of the legislation which fact will be of great advantage to the Indian Policyholder. The Registration certificate shall now have to be obtained by all companies but it is advisable that such certificates in the case of non-Indian companies should be annual so that the Superintendent of Insurance may be able to have a control on them more effectively.

Publicity regarding the working of Insurance companies is likely to offer great safety and a proper guide to the Indian Policyholders. The Bill now accepts the principle that non-Indian Insurance companies should furnish all the returns regarding their business in

India that the Indian Companies have to furnish regarding their entire business. Section 13, however, allows certain exceptions to the rule. From the Indian Policyholders point of view this is very objectionable. The Committee, therefore, suggest either the deletion of the whole Section or its amendment so as to make it compulsory for non-Indian Companies to submit all the returns regarding their Indian business.

The safety of the Indian Policyholders requires not only that the investments of Insurance companies should be safe, but that the assets should be available in India for their benefit. The Committee welcome Section 23 provided some changes are made therein. Investments allowed under the Indian Trust Act are as safe as any other investments. These should therefore be permissible under this Section. Regarding non-Indian companies the principle ought to be that they should keep invested in India in trust for their policyholders in India sufficient assets to meet their liabilities in India, Merely keeping certain assets in India will not safeguard the Indian Policyholder.

The Committee welcome the provisions regarding nominations and assignments in the Bill but in the interests of the policyholders they have suggested certain amendments. The interests of the Policyholders as a class are bound to be safeguarded better by the provisions made in the Bill regarding Licenses to Agents, limitation of commissions and prohibition of rebates. We have suggested some amendments, which are necessary, to the sections as they stand.

Another concern of the Insurance Legislation should be the protection of genuine Indian Insurance concerns without any detriment to the interests of Indian Policyholders. The Committee is surprised to hear questions being asked whether any case for such protection has been made. It is obvious that India could be self-sufficient in offering facilities for insurance. It is also obvious that the Indian Insurance companies at present existing have not attained the great heights attained by their sister companies in other parts of the World. This in itself is a sufficient case for including provisions in the insurance Legislation for the protection of Indian Insurance concerns. In addition to the above two points the Committee submit that the Indian Companies have a really good case for protection as they have to suffer from uneconomic competition from non-Indian companies. In the field of general insurance there are only 14 Indian companies as against 134 non-Indian companies. The total business that India can offer to Insurance Companies is limited as it is comparatively a poor country which is not properly developed industrially. The hardships and struggles of these Indian companies can therefore be easily imagined.

In the field of life Insurance, at first sight it appears that Indian Life companies have made great progress. If, however, the position is properly examined, it will be found that compared to the total number of Indian Life insurance companies the apparent increase in business is deceptive. The total number of Indian Life Insurance Companies in the year 1935 was 212 while the total number of non-Indian companies working in India during the same period was 25. Indian Life companies with a total annual premium income of five lakhs and over were only 18 out of 212 as against 13 out of 25 non-Indian companies with similar income. Similarly there were only 12 Indian Life companies which could get new policies amounting to Rs. 50 Lakhs and more while 8 non-Indian companies got new policies of the same amount during the year. This will show that the majority of Indian Life companies are small and struggling.

Under the circumstances, in the case of life as well as other insurance companies the Committee suggest that the entry of further non-Indian companies should be prohibited for a substantial period. Such a step would give some relief to Indian Companies even though the present competition between Indian and non-Indian companies will continue.

III

It will be conceded that general insurance companies at least require more tangible protection than the above provision. The Committee, therefore, suggest certain additional Sections to the Bill. They had previously also pressed for such protection and at the instance of several people they have drafted actual Sections so that the meaning of the Committee's requests may be properly understood. These new Sections are sub-section (9) to Section 3 and new Sections 88 (D) and 88 (E).

There is one clause in the draft Bill which has aroused public discussion. This is the clause relating to the Managing Agents. The Committee have carefully considered this question in all its aspects. They feel that after the safeguards and checks put on the Managing Agents under the Indian Companies Amendment Act of 1936, the prohibition of Managing Agents for Insurance Companies in future is not justified.

In conclusion, the Committee welcome the principle of reciprocity incorporated in the Bill under Sections 3 (3) and 48. In order, however, that these Sections be more effective the Committee suggest that they should take effect automatically without any discretion being left to anybody. The Committee further suggest clear definitions of Indian and non-Indian companies so that non-Indian companies may not try to avoid the reciprocity contemplated in the above Sections. These definitions will also be useful for the purpose of granting protection to Indian Companies.

The first Legislative measure in India concerning Insurance was enacted in the year 1912. After 25 years the law is being revised and brought up-to-date. A splendid opportunity is thus offered to safeguard the interests of Indian policyholders and to create opportunities for Indian Insurance companies to develop and grow to their full height. If this opportunity is lost, another may not offer itself for long years to come.

Bombay,  
16th July 1937.

(Signed) R. J. DUFF (Chairman).

H. E. JONES.

K. SANTANAM.

K. S. R. IYER.

JIVANDAS P. DUTIA

J. C. SETALVAD } Hon.  
K. C. DESAI } Secretaries.

**Bill No. IV of 1937**

**(Bill to Consolidate and Amend the Law Relating to the  
Business of Insurance)**

**Additions, Amendments and Alterations**

**suggested by**

**The Indian Insurance Legislation Committee**

**BOMBAY**

[As Introduced in the Legislative Assembly.]

A

BILL

TO

*Consolidate and amend the law relating to the business of insurance.*

Whereas it is expedient to consolidate and amend the law relating to the business of insurance; It is hereby enacted as follows:—

PART I.

Preliminary.

Short title, extent and commencement.

1. (1) This Act may be called the Insurance Act, 1937.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor-General-in-Council may, by notification in the Gazette of India, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "actuary" means an actuary possessing such qualifications as may be prescribed by the Governor-General-in-Council;

(2) "auditor" means a person qualified under the provisions of section 144 of the Indian Companies Act, 1913, to act as an auditor of companies;

(3) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer means certified by a responsible officer of the insurer to be a true copy or a correct translation, as the case may be;

(4) "Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;

(5) "Government securities" means Government securities as defined in the Indian Securities Act, 1920;

(6) "insurance company" means any insurer being a company, association or partnership, which may be wound up under the Indian Companies Act, 1913;

VII of 1913.

X of 1920.

VII of 1913.



PART I.  
Preliminary.

PART I.  
Preliminary.

The Committee suggest that, if possible, the Act may be extended to "India" as defined by Section 311 of The Government of India Act 1935. The Committee assume that "Insurance" will be one of the Federal subjects coming within the exclusive province of Federal Legislatures and in order that Insurance Legislation may be homogenous in the whole of India including Indian States, it is necessary that the Act should have operation throughout India. It is apprehended that until Federation is brought into being the present Legislatures will not be competent to enact Laws governing the whole of India. The Committee, however, submit that as and when Federation comes into being, the Act may be extended to all the territories comprised in "India" as defined by the said Section 311.

In any event however, all the returns should have statistics relating to business in the whole of "India". The Section 311 is quoted below for ready reference.

*"India" means British India together with all territories of any Indian Ruler under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler the tribal areas, and any other territories which His Majesty in Council may, from time to time, after ascertaining the views of the Federal Government and the Federal Legislature, declare to be part of India."*

**Clause 2 (6):**

*The following words should be added at the end of the sub-section:—*

*" or under the Indian Partnership Act 1932."*

The Committee suggest that the definition should also include a partnership which may be wound up under the Indian Partnership Act of 1932.

## (7) "insurer" means—

(a) any person or body of persons carrying on insurance business who—

(i) carries on that business within British India, or

(ii) has his principal place of business or is domiciled in British India, or

VII of 1913.

(iii) is a body corporate incorporated under the Indian Companies Act, 1913; or stands to any such body corporate in the relation of a subsidiary company within the meaning of that Act as defined by sub-section (2) of section 2 of that Act; and

(b) any person or body of persons who in British India receives proposals of insurance, or issues policies, protection notes, cover notes or any document purporting to grant insurance cover on behalf of an underwriter who is a member of the Society of Lloyds or of any other association of insurance underwriters,

but does not include an insurance agent licensed under section 35 or a provident society to which the provisions of Part III apply;

(8) "life insurance business" includes annuity business, that is to say, the business of effecting contracts of insurance for the granting of annuities on human life;

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 2 (7) (a):**

*Add to (7) (a) at the end after the words "body of persons" the following words "or is a body corporate."*

The proposed addition seems necessary to include registered corporations.

**Clause 2 (7), (a), (ii):**

*Add at the end of 7 (a) (ii):—*

*"or is a body corporate incorporated under the Laws of any foreign country or stands to any such body corporate in the relation of a subsidiary company within the meaning of sub-Section (2) of Section 2 of the Indian Companies' Act 1913, or"*

*The amended sub-clause will read as follows:—*

*"(ii) has its principal place of business or is domiciled in British India, or is a body corporate incorporated under the laws of any foreign country or stands to any such body corporate in the relation of a subsidiary company within the meaning of sub-Section (2) of Section 2 of the Indian Companies' Act 1913, or"*

The Committee apprehend that under the definition of "insurer" a company incorporated under the laws of a foreign country and its subsidiaries are not included and in order to avoid any doubt the Committee suggest the addition as mentioned. Everybody would agree that such Companies should be included in the definition of "Insurer."

**Clause 2 (8):**

*Delete sub-clause (8) and substitute the following:—*

*"Life Insurance Business" means the issue of, or the undertaking of liability under, policies of insurance upon human life, or the granting of annuities upon human life."*

The definition of "Life Insurance Business" in the Bill is not complete and the Committee suggest the definition of "Life Insurance Business" as mentioned, which is the same as in the existing Act VI of 1912 and also in the Assurance Companies' Act 1909 of England.

**Additional definitions suggested:**

The Committee believe that it will be useful to define certain well-known expressions in the Insurance business reference to which has been made in the body of the Bill.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**"Accident Insurance business:"**

"*Accident Insurance Business*" means "the issue of, or the undertaking of liability under, policies of insurance upon the happening of personal accidents, whether fatal or not, disease, or sickness, or any class of personal accidents, disease or sickness."

**"Fire Insurance business:"**

"*Fire Insurance Business*" means "the issue of, or the undertaking of liability under, policies of insurance against loss by or incidental to fire."

**"Marine Insurance Business:"**

"*Marine Insurance Business*" means "the issue of, or the undertaking of liability under, policies of insurance against loss or damage to any vessel or to goods, wares, merchandise or property of any kind in transit by water and/or land, and against losses incident to Marine Adventure."

**"Motor Vehicle Insurance:"**

"*Motor Vehicle Insurance*" means "the issue of, or the undertaking of liability under, policies of insurance against loss or damage to, or arising out of, or in connection with the use of, motor vehicles, including third party risks."

**"Officer:"**

"*Officer*" includes "the Managing Agent, Managing Director, Manager, Secretary, Treasurer, Actuary and any other person designated as 'officer' by the bye-laws of the Company."

**"Workmen's Compensation Insurance Business:"**

"*Workmen's Compensation Insurance Business*" means "the issue of, or the undertaking of liability under, policies insuring employers against liability to pay compensation or damages to workmen in their employment."

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

This definition is similar to that given in Assurance Co.'s Act of 1909 which is as follows:—

"Accident Insurance Business; that is to say, the issue of, or the undertaking of liability under, policies of insurance upon the happening of personal accidents, whether fatal or not, disease, or sickness or any class of personal accidents, disease, or sickness."

This definition is similar to that given in the Assurance Companies' Act of 1909 which is as follows:—

"Fire Insurance Business; that is to say the issue of, or the undertaking of liability, under policies of insurance against loss by or incidental to fire."

This definition is similar to that given in the Bill introduced by Sir Charles Innes in 1925 which is as follows:—

"Marine Insurance Business" means the issue of, or the undertaking of liability under, policies of insurance against loss or damage to any vessel or to goods, wares, merchandise or property of any kind in transit by water."

The last sentence is taken from the Marine Insurance Act of 1906.

This definition is mainly based on the definition in the Draft Bill contained in the Clauson Committee's Report 1927 which is as follows:—

"Motor Vehicle Business" that is to say, the business of effecting contracts of insurance against loss or damage to, or arising out of, or in connection with the use of, motor vehicles, including third party risks."

This definition is similar to the definition contained in the Canadian Act of 1928 which is as follows:—

"Officer" includes the Manager, Secretary, Treasurer, Actuary and any other person designated as "officer" by the bye-laws of the Company."

This definition is similar to the definition contained in the Insurance Companies' Act 1909, which is as follows:—

"Employers' Liability Insurance business; that is to say, the issue of, or the undertaking of liability under, policies insuring employers against liability to pay compensation or damages to workmen in their employment."

- (9) "prescribed" means prescribed by rules made under this Act; and
- (10) "Superintendent of Insurance" means the officer appointed by the Governor-General-in-Council to perform the duties of the Superintendent of Insurance under this Act.

## PART II.

### Provisions applicable to insurers.

**Registration.** 3. (1) No insurer shall, after the commencement of this Act, begin to carry on any class of insurance business in British India, and no insurer carrying on any class of insurance business in British India shall continue, after the expiry of three months from the commencement of this Act, to carry on any such business, unless he has obtained from the Superintendent of Insurance a certificate of registration.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**"Indian Company:"**

*"Indian Company" means "a Company (other than a Provident Insurance Society) incorporated by or under the Laws of British India or an Indian State as defined by Section 311 of the Government of India Act 1935 for the purpose of carrying on the business of insurance, provided that three-fourths of its paid up capital is held in their own right by British Indian subjects domiciled in India as defined by the said Section 311, and that three-fourths of the Members of its governing body are such British Indian subjects as aforesaid."*

**"Non-Indian Company:"**

*"Non-Indian Company" means "a Company which is not an Indian Company as defined by this Act or a Company incorporated under the Laws of any foreign country for the purpose of carrying on the business of insurance, and having the faculty or capacity under its Act or other instruments of incorporation to carry on such business throughout British India."*

PART II.

Provisions applicable to insurers.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

It has been mentioned in the Report of the Indian Fiscal Commission 1921-22 page 133 that

"The settled policy of the Government of India is that no concession should be given to any firms in regard to industries in India unless such firms have a proportion at any rate of Indian Directors and unless such firms allow facilities for Indian apprentices to be trained in their works." This has been also emphasised in the Report of the External Capital Committee. The Committee are not unmindful of the provisions with respect to discrimination mentioned in Chapter III of Part V of the Government of India Act 1935. In order, however, that the provisions under Clause 3 (3) and Clause 48 of the Bill can be given effect to, it is absolutely necessary to have these two definitions. In the absence of these definitions the ideas underlying several clauses of the Bill will be frustrated. These definitions will be necessary if and when protection to Indian Insurance Companies is decided upon. It is further apprehended that in order to evade some of the provisions of the Act and with a view to pass off as Indian Insurance Companies some foreign companies may promote and incorporate subsidiary companies in accordance with the laws of British India but controlled by them and thereby obtain the status of Indian Companies. These two definitions therefore should be included.

PART II.

Provisions applicable to insurers.

(2) Every application for registration shall be accompanied by—

VII of 1913.

VII of 1913.

- (a) a copy of the memorandum and articles of association, where the applicant is a company and incorporated under the Indian Companies Act, 1913, or, in the case of a firm or of a company incorporated otherwise than under the Indian Companies Act, 1913, a copy of the deed of partnership or of the deed of constitution of the company, as the case may be, or in the case of an insurer having his principal place of business or domicile outside British India, the document specified in clause (a) of section 49;
- (b) the name, address and the occupation, if any, of the directors and of the manager in British India;
- (c) a statement of the class or classes of insurance business done or to be done, and a certificate from the Reserve Bank of India that the amount required to be deposited by section 5 before application for registration is made has been deposited; and
- (d) where the provisions of section 4 apply, a declaration verified by an affidavit that the provisions of that section as to working capital have been complied with.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 3 (2) New Sub-clause (e) :**

*Add sub-clause (e) to sub-clause (2):—*

*"In the case of a non-Indian Company a declaration verified by an affidavit specifying in details the disabilities and/or requirements imposed upon Indian Companies according to the Laws under which such non-Indian Companies are incorporated."*

The Committee feel the necessity of such a provision inasmuch as it will enable the Governor-General-in-Council either to decline registration under Clause 3 (3) or to impose the same requirements and/or disabilities under Clause 48 of the Bill.

**Clause 3 (2), New Sub-clause (f) :**

*Add the following sub-clause (f) to sub-clause (2):—*

*"In the case of a non-Indian Company a declaration verified by an affidavit declaring that it carries on its independent business and issues policies in its own name at its principal place of business or domicile where it has its independent existence and is not merged in or amalgamated with any other insurer."*

The Committee in their experience have known several instances where foreign insurance companies although not carrying on any insurance business in their own country purport to do insurance business in India in their own independent name. This is done in order to secure more agents to compete with Indian Companies. With a view to prevent such a contingency the Committee have felt the necessity of inserting such a sub-clause.

(3) In the case of any insurer having his principal place of business or domicile outside British India, the Governor-General-in-Council may direct the Superintendent of Insurance to withhold registration or may 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, companies incorporated in British India are debarred from carrying on the business of insurance, or that any requirement imposed on such insurer under the provisions of section 48 is not satisfied.

(4) In the case of any insurer the Governor-General in-Council may direct the Superintendent of Insurance to cancel a registration already made, if the insurer fails to comply with the provisions of section 5 as to deposits.

**Clause 3 (3):**

Delete the word "may" in line 3 as well as in line 4 and substitute the word "shall."

Add at the end of sub-clause (3):—

" or the insurer is not capable of fulfilling its obligations to the policyholders or is offering schemes which are either actuarially or otherwise unsound."

The amended clause will read as follows:—

" In the case of any insurer having his principal place of business or domicile outside British India, the Governor-General-in-Council shall direct the Superintendent of Insurance to 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, Companies incorporated in British India are debarred from carrying on the business of insurance, or that any requirement imposed on such insurer under the provisions of Section 48 is not satisfied or the insurer is not capable of fulfilling its obligations to the policy-holders or is offering schemes which are either actuarially or otherwise unsound."

**New sub-clause, 3 (5):**

Add the following sub-Clause (5) to Clause 3:—

" The certificate of registration granted to a non-Indian Company shall expire on 31st day of March in each year and may be renewed from year to year subject however to any qualification or limitation which is considered expedient, provided that such certificate may from time to time be renewed for any term less than a year."

The Committee feel that no discretion should be left to the Governor-General-in-Council to withhold or cancel registration but that it should be made obligatory for the Governor-General-in-Council to withhold or cancel registration on the grounds mentioned in sub-Clause (3). In view of this provision in the Bill, the Committee, as already stated, are emphatically of the opinion that the definition of an " Indian Company " should be included in the Bill, as otherwise a Company if registered in British India may be wholly dominated or owned directly or through their nominees by foreigners in whose country of origin Indian Companies are not permitted to work. No registration is however to be granted to non-Indian Companies not working in India on the 1st day of January 1937 for a period of twenty years as suggested in sub-Clause (7) of Clause 3.

The Committee feel that in the case of non-Indian Companies the certificate of registration should be renewed every year so that the Superintendent of Insurance may be in a position to exercise an essential control over non-Indian Companies operating in India to the detriment of the Indian Insurance Companies. It will be interesting to observe that similar provisions exist in Canada and New York as mentioned below:—

" Foreign Insurance Co.'s Act, Canada 1932 "

**Section 10 (2):**

" The certificate of registry shall expire on the 31st day of March in each year, but may be renewed from year to year or for any term less than a year."

New York Insurance Law 1935, p. 24.

**Section 32:**

" The certificate of authority granted by the Superintendent of Insurance, pursuant to the provisions of this Chapter to a foreign insurance corporation to do business in this state, shall not remain in force for a longer period than one year and all such certificates shall expire on the 30th day of April of the year next following the date of issue."

**7**

**NOTES**

**CLAUSES OF GOVERNMENT BILL.**

**New sub-clause 3 (6):**

*Add the following sub-Clause (6) to Clause 3:—*

*"The certificate of registration granted to an Insurer may after giving reasonable notice be cancelled at any time by the Governor-General-in-Council on the recommendation of the Superintendent of Insurance, if it appears to him that the Insurer conducts his business in such a manner as to affect adversely and unfairly the normal growth and progress of Indian Insurance Companies."*

**New sub-clause 3 (7):**

*Add the following sub-Clause (7) to Clause 3:—*

*"Notwithstanding anything to the contrary contained in this Act, no certificate of registration shall be granted for a period of 20 years from the date of the passing of this Act to a non-Indian Company which was not on the 1st day of January, 1937 carrying on the class or classes of Insurance business for which the certificate is applied for by such a Company, provided that the Governor-General-in-Council may in his absolute discretion from time to time extend the said period of 20 years."*

This clause is based on a somewhat similar clause contained in the New York Insurance Legislation. Under the said legislation power is given to the Superintendent to refuse to issue any such certificate to a domestic or foreign corporation if in his judgment such refusal will best promote the interests of the people of the State. In the opinion of the Committee unfair foreign competition and similar methods have prevented the healthy growth of indigenous insurance companies and it is therefore necessary that such a power should be reserved to the Governor-General-in-Council. The relevant clause is Clause 32 of New York Insurance Law of 1935, page 24.

The reasons for adding this sub-clause are obvious. According to the figures given in the "Indian Insurance Year Book 1935" there are at present in India about 225 Companies carrying on business of life insurance. There are also about 145 Companies carrying on the business of all kinds of insurance other than life. In the case of Indian Life Insurance Companies and particularly the newly formed Companies, it is essential that sufficient time and opportunity should be given to them to consolidate their position. By reason of the proposed addition of such a sub-clause Life Insurance Companies will get ample time to secure their due share in the total business of life insurance transacted in India. The clause is not intended, however, to affect those non-Indian Insurance Companies which are already operating in India. As regards Indian Companies carrying on the business of all kinds of Insurance other than life, it is imperative that they should be given time and opportunity to grow. The number of Indian Companies doing insurance business other than life is quite insignificant compared to the number of foreign companies operating even now in India. Out of the total number of 145 Companies, there are 14 Indian Companies and 131 Non-Indian Companies. The Committee feel the necessity of preventing new foreign companies from operating in India so that the existing Indian Companies may consolidate their position and have their due share in the total insurance business transacted in India. This recommendation is not in the nature of protection to Indian Companies as it does not affect the non-Indian Companies already working in India at present. With the in-



creased restrictions on Insurance companies under the Bill, it cannot be expected that new indigenous insurance companies doing general business would be established in India unless some restriction on new foreign Companies as suggested here is put. It is apparent from the large number of non-Indian Companies working in India that there is scope for Indian talent and capital in this direction provided foreign competition is curbed. At present however the promoters of Indian Companies doing general business are very shy as would be seen from the dates of establishment of existing Indian Companies:—

No. of Companies established		
before 1920	.. ..	8
Between 1921 and 1930	.. ..	2
Between 1931 and 1937	.. ..	4

Even in this small number there are few Companies which will not be considered Indian Companies according to the definition of an "Indian Company" as given by our Committee above. This shows the necessity of adding the Sub-clause as suggested here.

**New sub-clause 3 (8):**

*Add the following sub-Clause (8) to Clause 3:—*

*"Before issuing the certificate of registration to an Insurer, the Superintendent of Insurance must be satisfied that the name of the Insurer is not that of any other existing Insurer, or any name liable to be confounded therewith, or otherwise on public grounds objectionable."*

**New sub-clause 3 (9):**

*Add the following sub-Clauses (9 a & b) to Clause 3:—*

*9-a) "Notwithstanding anything to the contrary in this Act, no certificate of registration shall be granted to a Non-Indian Company unless as a condition to the grant of such certificate such Non-Indian Company agrees to effect reinsurances relating to its business of every kind of Insurance other than life transacted in India (whether the policy or policies in respect thereof is or are issued in India or elsewhere) to the extent of one tenth of the total amount insured under each and every policy issued by it in respect of such business with Indian Companies holding a certificate of registration under the Act, unless a certificate is obtained from the Superintendent of Insurance that such Insurance cannot be effected with any of such Indian Companies."*

This sub-clause is based on a similar clause in the Canadian Act of 1928. There is a similar clause in the Indian Companies' Act, Section 11. But the office of the Registrar of Joint Stock Companies is a provincial office which may have no knowledge about the names of all insurers in India. Under the circumstances, the new sub-clause as suggested is necessary.

The position of Indian Insurance Companies as compared to that of non-Indian companies working in India has been described above. As already mentioned there is an overwhelming number of non-Indian companies doing general business who have been in India for a very long time and have formed connections thereby preventing the small number of Indian companies working in India from getting the business of their own countrymen. In order that the Indian companies may secure such business it is necessary to have in the Act a provision as suggested in this new sub-section. In case the Indian companies are unable to accept the business to be offered to them under this Section there is a provision by which the non-Indian companies will be relieved of their obligation. Unless non-Indian companies are obliged to give the insurances to Indian companies as suggested there will be no incentive for the promotion of new com-

**Requirements as to capital.** 4. No firm established or company incorporated in British India after the 31st day of December, 1936, for the purpose of carrying on the business of life insurance, whether solely or in common with any other business, shall be registered unless it has a paid up capital sufficient to yield a net sum of not less than fifty thousand rupees as working capital.

**Deposits.** 5. (1) Every insurer shall, in respect of the insurance business carried on by him in British India, deposit and keep deposited with the Reserve Bank of India for and on behalf of the Governor-General-in-Council cash or Government securities estimated at the market value of the securities on the day of deposit, of the amount hereafter specified, namely:—

- (a) where the business done or to be done is life insurance only, two hundred thousand rupees;
- (b) where the business done or to be done is fire insurance only, one hundred and fifty thousand rupees;



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

9-b) *"The Commission payable to such Non-Indian Companies on such reinsurances shall be at the rate of five per cent more than the actual commission paid, the rate of such actual commission not being more than the rate of commission payable under this Act to an insurance agent."*

panies in India doing general business. Legislation on somewhat similar lines was suggested in Ireland and already exists in Turkey and Chile.

Clause 4:

Add at the end of Clause 4 the following words:—  
*"exclusive of the deposits to be made under this Act and also exclusive of the preliminary expenses which a Company may incur in its formation."*

The addition seems obvious if the words "working capital" are to have any meaning.

Clause 5 (1):

Add after the words "Government Securities" in line 5 the following:—  
*"or securities as specified in Section 20 (b), (bb) and (d) of the Indian Trusts Act II of 1882."*

By the proposed addition, the Insurer will be in a position to make deposits in Municipal and Port Trust Loans of different provinces, which may give a little higher yield than in Government Securities. The suggested addition does not permit mortgages. For ready reference the relevant sections of the Indian Trusts Act are reproduced here:—

20. "(b) in bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India:

20. "(bb) in India three and a half per cent stock, India three per cent stock, India two and a half per cent stock, or any other capital stock which may at any time hereafter be issued by the Secretary of State for India in Council under the authority of an Act of Parliament and charged on the revenues of India,

20. "(d) in debentures or other securities for money issued, under the authority of any Act of a Legislature established in British India, by or on behalf of any municipal body, port trust or city improvement trust in any Presidency town, or in Rangoon Town, or by or on behalf of the trustees of the port of Karachi."

- (c) where the business done or to be done is marine insurance only, one hundred and fifty thousand rupees;
- (d) where the business done or to be done is accident and miscellaneous insurance including workmen's compensation and motor car insurance, one hundred thousand rupees;
- (e) where the business done or to be done includes life insurance and any one of the three classes specified in clauses (b), (c) and (d), three hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business;
- (f) where the business done or to be done includes life insurance and any two of the three classes specified in clauses (b), (c) and (d) four hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business;
- (g) where the business done or to be done includes life insurance and all three classes specified in clauses (b), (c) & (d), four hundred and fifty thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business;
- (h) where the business done or to be done does not include life insurance but includes any two of the classes specified in clauses (b), (c) & (d), two hundred and fifty thousand rupees; and
- (i) where the business done or to be done does not include life insurance but includes all three classes specified in clauses (b), (c) and (d), three hundred and fifty thousand rupees.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**Clause 5 (1) (c):**

*Instead of the word "marine" substitute the words  
"accident and motor vehicle".*

**Clause 5 (1) (d):**

*Add between the words "is" and "accident" in line  
one the word "personal" and delete the words "and motor  
car insurance" in line three.*

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Comparatively the Marine business in India is very small, but the Committee feel that larger deposits should be required for Motor Vehicle Insurance.

The Committee in their original report and draft bill had recommended that larger deposits should be required from non-Indian Companies, but in view of Clause 48 of the Bill the Committee do not press this point for larger deposits, provided it is made obligatory under Clause 48 of the Bill for the Governor-General-in-Council to impose upon non-Indian Companies the same requirements as are required of Indian Companies in their countries.

(2) Where the deposit is to be made by an insurer incorporated before, or carrying on the business of insurance before, the 1st day of January, 1937, in respect of any class of business carried on by him at that date the deposit referred to in sub-section (1) may be made in instalments of not less than one-fourth the total amount before the application for registration is made, not less than one-half the balance before the 1st day of January, 1939, and the balance before the 1st day of January, 1940.

(3) Where the deposit is to be made by an insurer incorporated after, or commencing business after, the 31st day of December, 1936, the deposit may be made in instalments of not less than one-half the total amount before the application for registration is made, not less than one-half the balance before the expiry of one year from the commencement of business, and the balance before the expiry of two years from the commencement of business.

(4) No class of insurance business in addition to the class or classes in respect of which an insurer is already liable to make a deposit under sub-section (1) shall be undertaken by the insurer until the deposit to which he is already liable has been made in full, and the additional deposit required in respect of the additional class of business has also been made.

(5) Securities already deposited with the Controller of Currency in compliance with the Indian Life Assurance Companies Act, 1912, shall be transferred by him to the Reserve Bank of India and shall, to the extent of their market value on the day of the first deposit made in compliance with this Act, be deemed to be deposited under this Act in respect of the life insurance business of the insurer.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**Clause 5 (2):**

Delete the words "in instalments of not less than one-fourth the total amount before the application for registration is made, not less than one-half the balance before the 1st day of January 1939, and the balance before the 1st day of January 1940" and substitute the following words:—

"in seven instalments the first of such instalment should be not less than one-fourth the total amount to be paid before the application for registration is made and the balance of deposit to be made in six equated instalments; the second instalment to be paid before 1st January 1939 and the subsequent instalments to be paid on the 1st day of January in each succeeding year."

**Clause 5 (3):**

Add in line 1 after the word "Insurer" the following words:—

"other than a non-Indian Company."

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

The proposed amendment is suggested by the Committee in order to give sufficient time to smaller existing Companies for making the full statutory deposit. If the clause contained in the Bill is allowed to pass it will act as a great hardship particularly to composite companies.

Non-Indian Companies which decide to extend their activities to British India should be prepared to pay the full deposits required under the Act. When a Company goes out to foreign lands it is supposed to be of some standing in its country of origin and it can pay such deposits without hoping for instalments. The system of instalments might tempt some companies which are not financially strong to come to India and make experiments in the Indian market perhaps to the detriment of Indian indigenous Companies. To avoid such a possibility the Committee have recommended that the concession of making the statutory deposit by instalments should not be extended to non-Indian Companies.

(6) A deposit made in cash shall be invested in Government securities, and any interest accruing due on securities deposit under sub-section (1), or on securities in which a deposit made in cash has been invested, shall be paid to the insurer, subject only to deduction of the normal commission chargeable for the realization of interest.

(7) The insurer may at any time, and, if the Reserve Bank of India requires him to replace securities maturing for repayment shall, substitute for securities lodged with the Bank under this section other Government securities of equal value at the market rate prevailing at the time of substitution.

(8) If any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall be deemed to have failed to comply with the requirements of sub-section (1), unless the deficiency is supplied by the deposit of further securities within a period of one month.

Reservation  
of deposits.

6. (1) Any deposit made under section 5 shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge; nor shall it be available for the discharge of any liability of the insurer other than liabilities to policyholders arising out of their policies of insurance so long as any such liabilities remain undischarged; nor shall it be liable to attachment in execution of any decree except a decree obtained by a policyholder of the insurer in respect of a debt due upon a policy which debt the policyholder has failed to realise in any other way.

(2) Where a deposit is made in respect of more than one of the classes of insurance specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 5, the deposit made in respect of any one of such classes shall not be available for the discharge of any liability of the insurer other than liabilities to policyholders of that class so long as any such liabilities remain undischarged.

Refund of  
deposits.

7. Where an insurer has ceased to carry on in British India any class of insurance business in respect of which a deposit has been made under section 5 and his liabilities in British India in respect of business of that class have been satisfied or are otherwise provided for, the Court may, on the application of the company, order the return to the insurer of so much of the deposit as does not relate to the classes of insurance, if any, which he continues to carry on.

Separation of  
accounts and  
funds.

8. (1) Where the insurer carries on business of more than one of the classes specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 5, he shall keep a separate account of all receipts and payments in respect of each such class of insurance business.

(2) Where the insurer carries on the business of life insurance, the excess of receipts over payments in respect of such business shall be carried to and shall form a separate fund to be called the life insurance fund and the deposit made by the insurer in respect of life insurance business shall be deemed to be part of such fund.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**Clause 5 (6):**

*Delete the whole clause and substitute the following:—*

*"A deposit made in cash shall remain with the Reserve Bank of India to the credit of the Insurer and shall be returnable to the Insurer in cash under any of the provisions of this Act and any interest accruing due on securities deposited under sub-Section (1) shall be paid to the Insurer."*

**Clause 5 (7):**

*Delete the word "Government" in line 4 and substitute the word "permissible" and add at the end of the word "or equivalent cash."*

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

The deposit made in cash is with a view to avoid fluctuations in the market and it is fair that if a deposit is made in cash the same should be made returnable in cash. As regards interest no commission is charged by Government on securities deposited at present and the Committee see no reason why the present arrangement should be changed.

(3) The life insurance fund shall be as absolutely the security of the life policy-holders as though it belonged to an insurer carrying on no other business than life insurance business and shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of life insurance and shall not be applied directly or indirectly for any purposes other than those of life insurance.

Accounts and  
balance  
sheet.

9. (1) Every insurer, in the case of an insurer specified in clause (ii) or clause (iii) of sub-clause (a) of clause (7) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in British India shall at the expiration of each calendar year prepare with reference to that year—

- (a) in accordance with the regulations contained in Part I of the First Schedule, a balance-sheet in the form set forth in Part II of that Schedule;
- (b) in accordance with the regulations contained in Part I of the Second Schedule, a profit and loss account in the forms set forth in Part II of that Schedule, except where the insurer carries on business of one class only of the classes specified in clauses (a), (b) and (c) of sub-section (1) of section 5 and no other business;
- (c) in respect of each class of insurance business carried on by him in accordance with the regulations contained in Part I of the Third Schedule a revenue account in the form or forms set forth in Part II of that Schedule applicable to that class of insurance business.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 9 (1):**

*Delete the word "British" in line 6.*

It is necessary that all the returns to be useful should be for the whole of India and not merely British India.

**New Clause 9 (1) (d):**

*Add the following Clause 9 (1) (d).*

*A statement showing—*

- (A) as regards new policies of Life Assurance in respect of which a premium has been paid in the year of account,—*
- (i) the number of policies,*
  - (ii) the sums assured,*
  - (iii) the amount received by way of single premiums (including all premiums paid at the outset where no subsequent premium is payable), and*
  - (iv) the amount of yearly renewal premium income;*
- (B) as regards total Life Insurance Business—*
- (i) the number of policies in force at the end of the year of account, and*
  - (ii) the sum assured (including reversionary bonus addition thereto) under policies in force at the end of the year of account, and*
  - (iii) the premium income for which credit is taken in the revenue account.*

This reproduces that part of Section 7 of the Indian Insurance Act of 1912 which appears to have been left out by an oversight.

(2) Unless the insurer is a company to which the VII of 1913. Indian Companies Act, 1913, applies, the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman and two directors and the principal officer of the company, or in the case of a firm by two partners of the firm, and shall be accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report by such persons on the affairs of the business during that period.

(3) Where an insurer carrying on the business of insurance at the commencement of this Act has prepared the balance sheet and accounts required by the Indian VI of 1912 Life Assurance Companies Act, 1912, or has based his accounts upon the financial and not the calendar year, the provisions of this section shall, if the Governor-General-in-Council so directs in any case, apply until the 31st day of December, 1939, as if in sub-section (1) references to the calendar year were references to the financial year.

Audit. 10. The accounts of every insurer, in the case of an insurer specified in clause (ii) or clause (iii) of sub-clause (a) of clause (7) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in British India, shall, unless they are VII of 1913. subject to audit under the Indian Companies Act, 1913, be audited annually by an auditor, and the auditor shall in the audit of any such accounts have the powers and exercise the functions vested in and discharge the duties imposed on auditors of companies by section VII of 1913. 145 of the Indian Companies Act, 1913.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

(C) *as regards claims the amount of the claims paid in the year of account under policies effected in India,—*

- (i) *to claimants in India, and*
- (ii) *to claimants outside India.*

(D) *For the purpose of Clause 9 (1), A, B, C all items required to be stated shall be net amounts after deduction of the reinsurances of the Company's risks, and for the purposes of sub-clauses (A), and (B) of that Clause—*

- (a) *the statement shall show separately the numbers and amounts in respects of policies effected in, and policies effected outside India;*
- (b) *where a sum assured is payable periodically, whether by way of an annuity or otherwise, it shall be stated separately from lump sum payments; and*
- (c) *policies of assurance upon the lives of a group of persons whereby sums assured are payable in respect of several persons included in the group shall be excluded from the statement containing the like particulars."*

Actuarial  
report and  
abstract.

11. (1) Every insurer carrying on life insurance business shall, in the case of an insurer specified in clause (ii) or clause (iii) of sub-clause (a) of clause (7) of section 2 in respect of all life insurance business transacted by him and in the case of any other insurer in respect of the life insurance business transacted by him in British India, once in every five years cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the regulations contained in Part I of the Fourth Schedule and in conformity with the requirements of Part II of that Schedule.

(2) The provisions of sub-section (1) regarding the making of an abstract shall apply whenever at any other time an investigation into the financial condition of an insurer is made with a view to the distribution of profits or to the ascertainment of the exact financial condition of the insurer.

(3) There shall be appended to every such abstract as is referred to in sub-section (1) or sub-section (2) a certificate signed by the principal officer of the insurer that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(4) There shall be appended to every such abstract a statement, in conformity with the requirements of Part II of the Fifth Schedule and prepared in accord-

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**Clause 11 (1):**

Delete the word "British" in line 7 and add the following words between "India" and "once":—

"as defined by Section 311 of the Government of India Act 1935 at least"

**Clause 11 (2):**

Add between the words "investigation" and "into" in line 3 the following words:—

"under the Act"

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

The Committee are of the opinion that it is difficult to distinguish between business transacted in British India and that transacted in Indian States; moreover, the considerable labour involved would not serve any useful purpose unless business from the whole of India is included. A proposal may be received from a person residing in an Indian State by a non-Indian Company at its principal office in British India, and if such a proposal is accepted by the principal office, then according to law the business is deemed to be transacted in British India. Moreover, some non-Indian Companies may resort to a device by which they may evade the provisions of the Act by having a principal office or a Branch office in an Indian State at which even proposals from residents in British India may be accepted. In order to avoid such a contingency the Committee suggest that the Actuarial Report and abstract should be made in respect of the life insurance business transacted in the whole of India as defined by the Government of India Act 1935. The existing requirements regarding returns apply also to the business, etc., of the whole of India and not merely to British India.

In September 1928 when the Government amended the Indian Insurance Act the Select Committee changed the words "British India" to "India" and Sir Phiroz Sethna remarked in the Council of State as follows:

*"I am glad the Select Committee have altered the words throughout the Bill from "British India" to "India". They have certainly done so because we require figures of premiums, claims, etc., of all Indian and non-Indian companies on the business done by them throughout the whole of India."*

It is a surprise that this Bill has receded from the existing provisions.

The proposed addition is necessary in view of the fact that many companies would like to have their own investigation made for office purposes for which it is not necessary to conform in details to the provisions of sub-Section (1) of Section 11.

ance with the regulations contained in Part I of that Schedule, of the life insurance business in force at the date to which the accounts of the insurer are made up for the purposes of such abstract:

Provided that, if the investigation referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every five years.

(5) Where an investigation into the financial condition of an insurer is made as at a date other than the expiration of the year of account, the accounts for the period since the expiration of the last year of account and the balance sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by this Act.

Submission  
of returns.

12. (1) The audited accounts and statements referred to in section 9 and the abstract referred to in section 11 shall be printed, and four copies thereof shall be furnished as returns to the Superintendent of Insurance in the case of the documents referred to in section 9 within three months and in the case of the abstract referred to in section 11 within six months from the end of the period to which they refer:

Provided that the said periods shall in the case of insurers having their principal place of business or domicile outside British India be extended by three months, and provided further that the Governor-General-in-Council may in any case extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding three months.

(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company, and, if the company has a managing director, by that director, and, in the case of a firm, by two partners of the firm.

(3) Where the insurer's principal place of business or domicile is outside British India, he shall forward to the Superintendent of Insurance, along with the documents referred to in section 9, either the balance sheet, profit and loss account and revenue account which the insurer is required to file with the public authority of the country in which the insurer is constituted, or, in lieu thereof, a certified statement showing the total assets and liabilities of the insurer at the close of the period covered by the said documents and his total income and expenditure during that period.

(4) If default is made in complying with the provisions of this section, any person knowingly and wilfully guilty of the default shall be punishable with fine which may extend to five hundred rupees for every day during which such default continues.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 12 (1):**

*Delete the word "three" in line 6 and substitute the word "six" and delete the word "six" in line 7 and substitute the word "twelve."*

The Committee feel the necessity of giving sufficient time to insurers for submission of returns. The existing Act also allows the same period suggested by the Committee for the purpose. It must be particularly stressed that "three months" would be impossible even for a Company which has substantial Branches in different parts of India, further it appears to have been overlooked that some Indian Companies transact a world wide business, and must have adequate time to secure returns of business, and accounts from far-distant agents.

**Clause 12 (2):**

*Add after the word "Managing Director" in line 4 and after the word "Director" in line 5, the following words:—*

*" or managing agent "*

The Committee suggest the continuation of the Managing Agency and the Bill contemplates the continuance of Managing Agents for some time at least. The proposed addition, therefore, seems to be necessary.

Returns by  
insurers  
established  
outside  
British India.

13. (1) Where, by the law of the country in which an insurer, not being an insurer specified in clause (ii) or clause (iii) of sub-clause (a) of clause (7) of section 2, is constituted, incorporated or domiciled, the insurer is required to prepare and to furnish to a public authority of that country documents of substantially the same nature as the documents required to be furnished as returns in accordance with the provisions of section 12, the provisions of sub-section (2) of this section shall apply to such insurer in lieu of the provisions of sections 9 to 12.

(2) The insurer shall, within the time specified in sub-section (1) of section 12, furnish to the Superintendent of Insurance four certified copies of every balance sheet, account, abstract and statement supplied to the public authority referred to in sub-section (1) of this section, and, in addition thereto, four copies of each of the following statements, namely:—

- (a) a statement showing the assets held by the insurer in British India, and
- (b) for each class of insurance business carried on by him, a revenue account in the form or forms set forth in Part II of the Third Schedule applicable to that class of business, showing separately with respect to business transacted by the insurer in British India the details required to be supplied in a revenue account furnished under this clause of this sub-section.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

The Committee feel that there is no necessity for the Clause 13 to be included in the Act. It has been the demand of the Indian public that non-Indian Companies working in India should furnish all the returns of their Indian business which Indian Companies have to furnish regarding their business. Such a provision has been made in Sections 9 to 12. This Section however, might nullify what has been provided in Sections 9 to 12. This Section should therefore be deleted. If however, it is kept the amendments and additions suggested hereunder will be absolutely necessary.

**Clause 13 (2) (a):**

*Add after the words "British India" the following words:—*

*"in trust for the sole benefit of holders of policies issued in British India."*

It is absolutely necessary in the interests of the Policyholders in India of non-Indian Companies that sufficient assets should remain in Trust for them. In case of War or in case of liquidation of a non-Indian Company Indian policyholders can look upon only these assets in Trust for their safety. Merely keeping some investments in India will not serve the purpose as these investments will otherwise form part of the total assets of that Company in which all the creditors will be sharers. The Committee have, therefore, recommended that the assets to be maintained by the non-Indian Companies under Clause 23 (2) shall remain in British India in trust to meet all outstanding liabilities in respect of policies issued by them and the proposed addition, therefore, is necessary.

**Clause 13 (2)—New Sub-clause (c):**

*Add the following sub-Clause (c) to Clause 13 (2):—*

*"an abstract of the valuation report in respect of all life insurance business transacted by the Insurer in India as defined by Section 311 of the Government of India Act 1935 prepared in the manner required by Section 11, sub-Section (1)."*

The Committee think that a non-Indian Company should file a valuation report of their entire business transacted in India, as the Committee are doubtful as to whether the clause as drafted by the framers of the Bill would compel them to file such a valuation report. It is absolutely necessary that such a valuation report should be filed in order to enable the Superintendent to exercise proper control over them, to know the manner in which their business is transacted in India and to ascertain their liabilities to Indian Policyholders.

(3) The Governor General in Council may, by notification in the Gazette of India, specify the countries which shall be deemed to have made by law the provisions necessary under sub-section (1) to render the provisions of sub-section (2) applicable to insurers of those countries.

Exemption from certain provisions of the Indian Companies Act, 1913.

14. Where an insurer, being a company incorporated under the Indian Companies Act, 1913, in any year furnishes his accounts and balance-sheet in accordance with the provisions of section 12, he may at the same time send to the Registrar of Companies a copy of such accounts and balance-sheet; and where such copy is so sent it shall not be necessary for the company to file a balance-sheet with the Registrar as required by sub-section (1) of section 134 of that Act and the copy of the accounts and balance-sheet so sent shall be dealt with in all respects as if they were filed in accordance with that section.

Furnishing of reports.

15. Every insurer shall furnish to the Superintendent of Insurance a certified copy of every report on the affairs of the concern which is submitted to the members or policy-holders of the insurer immediately after its submission to the members or policy-holders, as the case may be.

Abstract of proceedings of general meetings.

16. Every insurer, being a company incorporated under the Indian Companies Act, 1913, shall furnish to the Superintendent of Insurance an abstract of the proceedings of every general meeting of the company within fifteen days from the holding of the meeting to which it relates.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**Clause 13 (2)—New Sub-clause (d):**

*Add the following sub-Clause (d) to Clause 13 (2):—*

*"A declaration in the prescribed form stating that all amounts and other items received by the insurer directly or indirectly in any manner or from his Head Office or from any other source outside India have been shown in the revenue account."*

**Clause 13 (2)—New Sub-clause (e):**

*Add the following sub-Clause (e) to Clause 13 (2):—*

*"All other returns in respect of such Life Insurance business as aforesaid as are required of an Insurer specified in Clause (ii) or Clause (iii) of sub-Clause (a) of Clause 7 of Section 2 under the Act or the rules made thereunder."*

**Clause 15:**

*Add between the words "Policyholders" and "as" in line 5 the following words:—*

*"at their respective meetings."*

**Clause 16:**

*Delete the word "fifteen" in line 5 and substitute the word "thirty."*

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

The Committee feel the necessity of such a provision being inserted in the Act in view of the fact that some non-Indian Companies have, in the past, obtained funds from their Head Offices in order to pay extra commissions or to carry on unfair competition with existing companies. Such a provision will bring to the notice of the Government and the public the exact amount received from outside India by non-Indian Companies.

It is necessary that these returns should also be filed on the grounds stated above and in order that the public may ascertain the exact position of the Insurer.

It is but just and fair that the reports should be furnished to the Superintendent after they are submitted to the members of a Company at their meeting.

Fifteen days period is too short and if the proceedings are furnished to the Superintendent within thirty days, no harm would be done to anybody.

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GOVERNMENT BILL.

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*Delete the word " fifteen " in line 5 and substitute the word " thirty."*

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ADDITIONS, AMENDMENTS AND ALTERATIONS.

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It is necessary that these returns should also be filed on the grounds stated above and in order that the public may ascertain the exact position of the Insurer.

It is but just and fair that the reports should be furnished to the Superintendent after they are submitted to the members of a Company at their meeting.

Fifteen days period is too short and if the proceedings are furnished to the Superintendent within thirty days, no harm would be done to anybody.

Custody and inspection of documents, and supply of copies.

17. (1) Every return furnished to the Superintendent of Insurance or a certified copy thereof shall be kept by the Superintendent and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of a fee of six annas for every hundred words or fractional part thereof required to be copied.

(2) A printed copy of the accounts, statements and abstract furnished in accordance with the provisions of section 12 or section 13 shall, on the application of any shareholder or policy-holder, be supplied to him by the insurer within fourteen days of such application.

Powers of Superintendent of Insurance regarding returns.

18. (1) If it appears to the Superintendent of Insurance that any return furnished to him under the provisions of this Act is inaccurate or defective in any respect, he may—

- (a) require from the insurer such further information, certified if he so directs by an auditor or actuary, as he may consider necessary to correct or supplement such return; or
- (b) call upon the insurer to submit for his examination any book of account, register or document or to supply any statement; or
- (c) require any officer of the insurer to give evidence before him on oath; or
- (d) decline to accept any such return until he is satisfied that the inaccuracy has been corrected or the deficiency has been supplied;

and if he declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 12 relating to the furnishing of returns.

(2) The Court may on the application of an insurer cancel any order made by the Superintendent under clause (a), (b) or (c) or may direct the acceptance of any return which the Superintendent has declined to accept, if the insurer satisfies the Court that the action of the Superintendent was in the circumstances unreasonable.

Power of Superintendent to order re-valuation.

19. If it appears to the Superintendent of Insurance that an investigation or valuation to which section 11 refers does not properly indicate the condition of the affairs of the insurer by reason of the faulty basis adopted in the valuation, he may cause an investigation and valuation to be made by an actuary appointed by himself.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**Clause 17 (1):**

Delete the word "person" in line 4 and substitute the following words:—

"member or policyholder of an insurer" and add after the word "return" in the same line the following words:—

"filed by such insurer"

**Clause 17 (2):**

Add between the words "policyholder" and "be supplied" in line 4 the following words:—

"made within one year from the filing of such documents"

Delete the word "fourteen" from line 5 and substitute the word "thirty."

**Clause 19:**

Add between the word "may" and the word "cause" in line 5 the following words:—

"with the consent of the Governor-General-in-Council"

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

The Committee feel that no person should have the right to have copies of returns furnished to him unless he is a member or a shareholder of the Company copies of whose returns are required. The public should no doubt have the right to inspect the returns which is given by this clause. The public have also an access to the Blue Books published by the Government, which give a summary of the returns of all Companies.

The Committee feel that if the clause as drafted is allowed to pass into Law it will entail unnecessary burden on the Insurer as any shareholder or policyholder may even require him to furnish very old documents.

The Committee feel that the power reserved by this clause to the Superintendent of Insurance should not be exercised by him without the sanction of the Governor-General-in-Council.

Evidence of documents.

20. (1) Every return furnished to the Superintendent of Insurance, which has been certified by the Superintendent to be a return so furnished, shall be deemed to be a return so furnished.

(2) Every document, purporting to be certified by the Superintendent of Insurance to be a copy of a return so furnished, shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

Summary of returns to be published.

21. The Governor General in Council shall from time to time cause to be published, in such manner as he may direct, a summary of the accounts, balance-sheets, statements, abstracts and other returns under this Act or purporting to be under this Act which have been furnished to the Superintendent of Insurance and may append to such summary any note of the Governor General in Council and any correspondence in relation thereto.

Returns to be published in statutory forms.

22. No insurer shall publish in British India any return in a form other than that in which it has been furnished to the Superintendent of Insurance.

#### Investment, Loans and Management.

Investment of assets and restriction on loans.

23. (1) Every insurer, being an insurer specified in clause (ii) or clause (iii) of sub-clause (a) of clause (7) of section 2, shall, unless he already holds invested in Government securities not less than thirty-three and one-third per cent. of the total assets of the undertaking invest all surplus assets in such securities until the total amount so invested amounts to not less than thirty-three and one-third per cent. of the total assets of the undertaking and shall thereafter keep invested in such securities not less at any time than thirty-three and one-third per cent. of the total assets of the undertaking.



**Clause 21:**

Delete the words "from time to time" in lines 1 and 2 and substitute the following words:—

"every year"

and after the words "Superintendent of Insurance" in line 6, add the following words "for the year preceding the date of publication."

**Clause 22:**

Make the sub-clause as it stands as sub-Clause (a) and add the following sub-Clause (b):—

"Nothing contained in sub-Clause (a) shall prevent an insurer from publishing a true and accurate abstract from such returns for the purpose of publicity."

**Clause 23 (1):**

Delete the word "Government" in lines 3 and 4 and add after the word "securities" the following words:—

"authorised by Sections 20 and 20 (A) of the Indian Trust Act II of 1882."

Add after the word "undertaking" in line 5 the following words:—

"exclusive of all sums of money deposited by such insurer in foreign countries for the purpose of carrying on the business of insurance in such countries according to their laws and customs, and exclusive of the book value of the Head Office Building if any."

Add after the word "undertaking" in line 9 the following words:—

"exclusive of all sums of money deposited as aforesaid as well as of the value of the Head Office Building."

Add after the word "undertaking" in line 12 the following words:—

"exclusive of all sums of money deposited as aforesaid as well as of the value of the Head Office Building."

The amended clause will read as follows:—

The Committee feel that the Blue Book should be published by Government every year showing the financial position of Insurance Companies operating in India in the preceding year.

The proposed addition is in the opinion of the Committee necessary in view of the fact that every insurer has to approach the public for securing business, and for that purpose has occasion to publish short abstracts from its reports and other returns in the form of pamphlets or advertisements.

The Committee have come to the conclusion that Insurance Companies should be allowed larger scope for investments of their assets than that provided under this subsection and with that end in view they suggest that they should be entitled to invest their assets in trust securities instead of Government Securities. It may be pointed out that Government Securities do not include even such Gilt-edged Securities as Municipal and Port Trust Bonds issued under the authority of local Governments. The general yield on Government Securities is lower than the yield on other Securities authorised under the Trust Act, and it is, therefore, necessary that the suggested amendment should be made in the Bill enlarging the scope of investments.

As regards the total assets of the undertaking the Committee feel that such assets should not include the deposits made in foreign countries for the purposes of the business of the Insurer according to the laws and customs

(2) Every insurer, not being an insurer to whom sub-section (1) applies, shall invest and keep invested in Government securities not less than thirty-three and one-third per cent. of the total premium income of the business transacted in British India in each year.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

"Every insurer, being an insurer specified in clause (ii) or clause (iii) of sub-clause (a) of clause 7 of Section 2, shall, unless he already holds invested in Securities authorised by Sections 20 and 20 (A) of the Indian Trust Act II of 1882, not less than thirty three and one-third per cent of the total assets of the undertaking exclusive of all sums of money deposited by such insurer in foreign countries for the purpose of carrying on the business of insurance in such countries according to their laws and customs, and exclusive of the book value of the Head Office Building if any, invest all surplus assets in such securities until the total amount so invested amounts to not less than thirty three and one-third per cent of the total assets of the undertaking, exclusive of all sums of money deposited as aforesaid as well as of the value of the Head Office Building and shall thereafter keep invested in such securities not less at any time than thirty-three and one-third per cent of the total assets of the undertaking exclusive of all sums of money deposited as aforesaid as well as of the value of the Head Office Building."

Clause 23 (2):

Delete the word "Government" in line 3 and add the following words after the word "securities" in line 3:—

"authorised by Sections 20 and 20 (A) of the Indian Trust Act II of 1882."

Delete the word "British" in line 5 and add after the word "India" in line 5 the following words:—

"as defined by Section 311 of the Government of India Act 1935."

Clause 23—New Sub-Clause (2-a):

Add the following new sub-Clause 2 (a):—

"The securities referred to in sub-Section (2) shall be kept in the name of two or more persons resident in British India or in a Trust Company incorporated in British India and approved by the Governor-General-in-Council who shall hold the same in trust for the sole benefit of holders of policies issued in India as defined by Section 311 of the Government of India Act 1935. The Trust Deed shall be approved by the Superintendent of Insurance and the Trustees may deal with such securities and the interest which may from time to time accrue due thereon in the manner provided by the Deed of Trust appointing them."

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

of such foreign countries, as such deposits may be required to be invested in securities authorised by the laws of such foreign countries. It has also become necessary for Companies to have their own building for the Head Office at least. Such buildings in Presidency Towns cost a good deal. They are moreover safe investments. It is suggested that the computation of total assets for investments should not include the cost of such buildings. It may also be pointed out that apart from these compulsory deposits an Insurer carrying on the business of life insurance has to make loans to his Policy-holders within the surrender value of the policies issued to them. The Committee need not point out that more than 5 per cent. of the total assets could not be invested by reason of the fact that they include items such as outstanding premiums, Agents balances, interest accrued but not payable, furniture, fixtures, motor cars, etc. It is for these reasons that the Committee have suggested the amendment.

The Committee feel that non-Indian Companies should also be given larger scope for investments on the grounds aforesaid. As regards the deletion of the word "British" the same remarks apply as in Section 11, sub-Section (1).

This provision is based on a similar provision contained in the Canadian Act of 1928 and also an enactment of U.S.A. The reasons for inserting such a sub-clause are obvious. Mere maintenance of assets in India will not properly safeguard the interests of Indian policyholders as in the event of liquidation or insolvency of an Insurer, non-Indian policyholders will be entitled to share pro rata in the assets invested in India. Moreover in the event of actual or threatened hostilities a foreign Insurer may cease to carry on business in India and withdraw the securities from India. To avoid such contingencies, it is absolutely necessary that in the interests of Indian Policyholders such securities should be held by competent persons in trust for the sole benefit of Indian policyholders. In this connection the Committee would beg to point out as an example the case of the "Phoenix" of Austria.



The following quotation will interest the reader:

"The Phoenix Life of Vienna was established in 1882, and has a share capital of Sch. 4,000,000 fully paid. During the period of over 50 years it has been in existence its business has made great progress, giving it a position of immense influence in its own market and important interests in most of the principal European countries. In 1933 its net premium income exceeded Sch. 115,000,000 and its insurance fund stood in the balance sheet as Sch. 404,300,068."

"The difficulties which are now disclosed arise as a consequence of a change of management following the death of Dr. W. Berliner. A re-valuation of the Company's position on an actuarial basis reveals the startling fact that the premium reserves are insufficient to meet the liabilities, the shortage being put by the Finance Minister, Dr. Draxter, at a maximum figure of Sch. 250,000,000, which at present rates of exchange would be close on £ 10,000,000 (Post Magazine and Insurance Monitor of 4th April 1936)."

Due to this shortage the business of the Company had to be suspended. When the business was closed, the policyholders in countries where full reserves were maintained for the benefit of those policyholders were not anxious about their moneys. But in countries where there was no provision like this the policyholders were in danger of losing their moneys. The provision therefore here suggested to be added to Clause 23 (2) is absolutely necessary to safeguard policyholders of non-Indian Companies in India. Similar provision existing in the Foreign Insurance Companies Act, Canada 1932 is quoted below:—

"Every Company registered under this Act to transact the business of Life Insurance, other than a Fraternal Benefit Society, shall, in respect of life insurance business in Canada, at all times maintain assets in Canada of an amount at least equal to its liabilities to policyholders in Canada, including matured claims and the reserve for outstanding policies in Canada required under this Act to be included in the annual statement, after deducting any claim the Company has against such policies, together with its other liabilities in Canada."

(—Section 12.)

"Every Company, other than a Fraternal Benefit Society, registered under this Act to transact any class of insurance business, other than Life Insurance, shall at all times maintain assets in Canada in respect of any such class of business of an amount at least equal to the

(3) None of the assets in British India of any insurer referred to in sub-section (1) shall be kept otherwise than in the corporate name of the undertaking, if a company, or in the name of the firm, except where they are kept in the name of the bankers or trustees approved by the board of directors of the company or by the partners of the firm.

(4) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security, except loans on life policies within their surrender value, to any director, manager or officer of the insurer when a company, or when the insurer is a firm to any partner therein, or to any other company or firm in which any such director, manager, officer or partner holds the position of director, manager, officer or partner.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

liabilities of the Company in Canada, including the liabilities of the Company in respect of its outstanding unmatured policies in Canada computed in accordance with the provisions of Section 50 of this Act: (Section 14).

**Clause 23 (4):**

Add after the word "Manager" occurring in lines 4, 7 and 8 the following words:—

"Managing Agent" "Auditor"

and at the end of the said sub-section add the following provisos:—

"Provided that payments made in advance by an Insurer to any such Director, Manager, Managing Agent, Auditor, Officer or partner for travelling expenses or against commission or other compensation to be earned in respect of premiums, shall not be deemed to be loans or advances within the meaning of this sub-section or Section 86 (d) of the Indian Companies' Act VII of 1913."

"Provided also that notwithstanding anything to the contrary contained in this sub-section or the said Section 86 (d) of the Indian Companies' Act VII of 1913, the total amount of outstanding premium from time to time becoming due in the usual course of business from a Director of an Insurer being a Company or from a firm in which such a Director is a partner, acting as an Agent of such a Company shall not be deemed to be loans or advances within the meaning of this sub-section or the said Section 86 (d) of the Indian Companies' Act VII of 1913."

The Committee have suggested the first proviso allowing advances to be made for travelling expenses or commission or compensation to be earned, in the interests of the Insurer himself, as otherwise it will create unnecessary difficulties in the day to day management of the business of the Insurer.

As regards the second proviso suggested by the Committee, it may be pointed out that every Indian Company has on its board, Directors of status and position in life who help the Company by influencing and giving business to the Company and in the day to day affairs of the dealings between such a Director and the Company some amounts are bound to remain outstanding as against him and if such a proviso were not inserted, such a Director would cease to be a Director and would vacate his office under Section 86 (i) which event might seriously prejudice the interests of the Company. It is, however, desirable that all the dues from such a Director should be paid up to the Company by the time the accounts and the Balance Sheet are signed by the Directors and the Directors report should contain a statement to that effect.

(5) In the event of any contravention of any of the provisions of this section, the insurer and where the insurer is a company any director, manager or officer of the company or where the insurer is a firm any partner of the firm, knowingly and wilfully a party to the contravention shall be punishable with fine which may extend to five hundred rupees and where any loss is sustained by the insurer in consequence of the contravention every such director, manager, officer or partner shall be jointly and severally liable for the amount of such loss.

Managing  
agents  
prohibited.

24. (1) No insurer shall, after the commencement of this Act, appoint managing agents for the conduct of his business.

VII of 1913.

(2) Where any insurer engaged in the business of insurance before the commencement of this Act employs managing agents for the conduct of his business then notwithstanding anything to the contrary contained in the Indian Companies Act, 1913, and notwithstanding anything to the contrary contained in the articles of the insurer, if a company, or in any agreement entered into by the insurer, such managing agents shall cease to hold office on the expiry of three years from the commencement of this Act and no compensation shall be payable to them by the insurer by reason only of the premature termination of their employment as managing agents.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Clause 23 (5):

After the word "Manager" occurring in lines 3 and 9 add the following words:—

"Managing Agent"

Clause 24:

Delete the entire Section 24.

After considerable discussion the Committee have come to the conclusion that Section 24, sub-Section (1) should be deleted. The Committee have arrived at this conclusion in the belief that under the existing conditions prevailing in India, it will be difficult to promote an Insurance Company and particularly a company formed for the purposes of carrying on general insurance business and make it a success. The Bill entails greater financial responsibilities on promoters of Insurance Companies than at present. The promotion of such companies therefore is likely to be very difficult if managing agency is discontinued. If, however, in future it is found by experience that such Companies could be successfully promoted and formed without the system of Managing Agencies, the question may be reconsidered.

As regards Section 24, sub-Section (2) the Committee have come to the definite conclusion that existing Managing Agencies of Insurance Companies should be allowed to be continued under the same conditions as are imposed upon for Companies under the Indian Companies Amendment Act of 1936. The question of Managing Agencies of Companies was considered in all its aspects at the time when the Company's Amendment Bill came up for discussion in the Assembly and after considering the pros and cons of the case the framers of the Company's Bill thought that so far as India was concerned Managing Agency system had come to stay. The Committee see no difference in the case of Managing Agents appointed for Insurance Companies and those appointed for non-Insurance Companies. It is common knowledge that Managing Agents of Insurance Companies have in the past used their best endeavours to promote indigenous Insurance business in India and have financed the Companies in time of crisis. Some of the Managing Agents have at the commencement acted as such Agents at a very small remuneration in the hope that in future when the Company became prosperous they would get a fair remuneration for

**Inspection.**

Power of  
Superin-  
tendent to  
order ins-  
pection.

25. (1) If the Superintendent of Insurance has reason to believe that the interests of the policy-holder of an insurer are in danger or that an insurer is unable to meet his obligations or has made default in complying with any of the provisions of this Act or that an offence under this Act has been or is likely to be committed by an insurer or any officer of an insurer, or if he receives a requisition in this behalf signed by shareholders of an insurer being a company not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or by not less than twenty policy-holder holding policies that have been in force for not less than three years and are of the total value of not less than twenty thousand rupees, he may, with the previous sanction of the Governor General in Council, appoint an auditor or actuary or both to investigate the affairs of the insurer or may himself make such investigation.

their past services. The Committee feel that the evils pertaining to Managing Agency system generally complained of will be remedied by the new provisions inserted in the Indian Companies' Act.

Sometimes Managing Agencies of Life Insurance Companies are adversely criticised for three reasons:—

- (1) For their investment Policy.
- (2) For being a burden on the expenses of the Company.
- (3) For being incompetent to handle and promote the business of the Company.

If, however, an analysis and a comparative study of several leading companies with and without managing agency is made, it would belie the charges.

When the Section is deleted it will be necessary to make a provision regarding remuneration of Managing agents as Section 87C of the Indian Companies Amendment Act specifically excludes the Insurance companies from its operation.

As regards life insurance companies the principle of giving a percentage of the net profits cannot apply because a life company has got no yearly profit and loss account and a periodical valuation is done after a number of years. The only principle that can be adopted in case of life companies is to fix a certain percentage on the first year's premium, or on the new business written, and on the renewal premium with a minimum monthly allowance. Regarding general insurance companies the provisions of Section 87C may be made applicable.

**Clause 25 (1):**

Delete the following words occurring in lines 12, 13, 14 and 15:—

*"twenty policyholders holding policies that have been in force for not less than three years and are of the total value of not less than twenty-thousand rupees,"*  
and add the following words in their stead:

*"One-hundred holders of policies of life insurance or one per cent. of the total number of holders of policies of life insurance whichever is more."*

The Committee feel that the number of policyholders who are entitled to apply should be a large number in view of the fact that if the said sub-section is allowed to be passed into law as it stands, an unscrupulous agent can secure the requisite number of policyholders to apply to the Superintendent of Insurance with the object of harassing the Company. The standing of the policies is not taken into account by the Committee. In substance therefore the number does not increase because even new policyholders of one year and two years standing can take steps contemplated under this Section. Just as in the case of shareholders, the number must have some relation to the total number of Policies, the Committee have suggested one per cent.

(2) The Court may on the application of an insurer forbid such action by the Superintendent if the insurer satisfies the Court that it is unreasonable in the circumstances.

(3) The results of any inspection made under this section shall be embodied in a report of which one copy shall be lodged with the Superintendent of Insurance and one copy shall be furnished to the insurer.

(4) The Superintendent of Insurance may require the insurer to comply within any time to be specified by him with any directions he may issue to remedy defects disclosed by such inspection.

(5) If, as a result of any inspection made under this section, the Superintendent of Insurance is of opinion that it is necessary in the interests of the policyholders that the business of the insurer should be wound up, or if the insurer fails to comply with any directions issued under sub-section (4), the Superintendent may, with the previous sanction of the Governor General in Council, apply to the Court to have the business of the insurer wound up.

Power of Superintendent to apply to Court.

26. If upon an application by the Superintendent of Insurance the Court is satisfied that there is reasonable cause to believe—

- (a) that an offence against this Act has been or is likely to be committed by an insurer, or
- (b) that in the case of an insurance company circumstances exist in which the company may be wound up by the Court, or in the case of an insurer not being a company that he has committed an act of insolvency.

the Court may make an order empowering the Superintendent of Insurance to appoint an auditor or actuary or both to investigate the affairs of the insurer and to report thereon in such manner as the Superintendent of Insurance may direct.

Powers of Investigator.  
VII of 1913.

27. When any investigation is made in pursuance of section 25 or section 26 the provisions of section 140 of the Indian Companies Act, 1913, shall apply for the purposes of such investigation as they apply to an investigation made in pursuance of section 138 of that Act.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Clause 25—New Sub-Clause (6):

*Add the following new sub-Clause (6) to Section 25:—*

*“In the case of a requisition by shareholders or policyholders under sub-Section (1) the Superintendent of Insurance shall require the requisitionists to deposit with him a sum of Rs. 500 at least as a deposit and in the event of the Superintendent or the Court finding that no case has been made out for ordering inspection or investigation then the Superintendent or the Court may order the whole of the said amount or such portion thereof as may be deemed sufficient as compensation to be paid to the Insurer.”*

The Committee feel the necessity of inserting such a provision in the draft bill with a view to prevent frivolous applications being made by shareholders and policyholders with ulterior motives. Insurance Companies have to take great care of their credit and irreparable harm will be done to the credit of Insurance Companies if applications under this Section are allowed to be made at the instigation of designing persons without sufficient cause.

**Amalgamation and Transfer of Insurance  
Business**

Amalgama-  
tion and  
transfer of  
insurance  
business.

28. (1) No life insurance business of an insurer shall be transferred to or amalgamated with the life insurance business of any other insurer except in accordance with a scheme prepared under this section and sanctioned by the Court.

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the Court to sanction any such scheme notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefor shall, at least two months before the application is made, be sent to the Governor General in Council and to every holder of a life policy of each insurer who is resident in British India and the following documents shall be furnished to the Governor General in Council and shall during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices or agencies of the insurers concerned namely:—

- (a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer;
- (b) certified copies of statements of the assets and liabilities of the insurers concerned in such amalgamation or transfer; and
- (c) certified copies of the actuarial or other reports including a report by an independent actuary on the proposed amalgamation or transfer.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 28 (3):**

*Add the word "Chief" between the word "or"  
and the word "agencies" in line 13.*

Insurance Companies have got canvassing agencies in a large number of towns and cities. It is therefore suggested to keep the documents in principal and branch offices or chief agencies of the insurers.

**Clause 28—New Proviso:**

*Add the following proviso at the end of sub-Clause (3) of Clause 28:—*

*"Provided that the Superintendent of Insurance may for sufficient cause dispense with all or any of the requirements of Section 28 sub-Section (3)."*

The Committee have reasons to believe that on the Insurance Act coming into force some small companies carrying on the business of life insurance will be compelled to amalgamate or transfer their assets to other companies and in their interests it is necessary that the stringent requirements of sub-Section (3) of Section 28 may be dispensed with if the Superintendent feels that such requirements would entail unnecessary delay or heavy costs.

Sanction of  
amalgama-  
tion by  
Court.

29. When any application such as is referred to in sub-section (3) of section 28 is made to the Court, the Court shall cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct and, after hearing the directors or other persons whom it considers entitled to be heard, may sanction the arrangement, if it is satisfied that no sufficient objection to the arrangement has been established.

Statement  
required after  
amalgama-  
tion.

30. Where an amalgamation takes place between any two or more insurers, or where any business of one insurer is transferred to another, whether in accordance with a scheme confirmed by the Court or otherwise, the insurer carrying on the amalgamated business or the insurer to whom the business is transferred, as the case may be, shall, within one month from the date of the completion of the amalgamation or transfer, furnish to the Governor General in Council—

- (a) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected, and
- (b) a declaration signed by every insurer concerned or in the case of a company by the chairman and the principal officer that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer, and
- (c) where the amalgamation or transfer has not been made in accordance with a scheme confirmed by the Court—
  - (i) certified copies of statements of the assets and liabilities of the insurers concerned, and
  - (ii) certified copies of the actuarial or other reports upon which the agreement or deed was founded.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**New proviso to Clause 29.**

*Add the following proviso at the end of Clause 29:—*

*" Provided that the Court may within three years from the date of the commencement of this Act may for sufficient cause dispense with the publication required under this Section."*

**Clause 30:**

*Delete the words "one month" in line 7 and add the following words:—*

*" three months "*

**Assignment or Transfer of Policies and  
Nominations.**

**Assignment  
and transfer  
of life  
insurance  
policies.**

31. (1) A transfer or assignment of a policy of life insurance may be made only by an endorsement either upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment.

(2) The transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but shall not be operative as against an insurer and shall not confer upon the transferee or assignee, or his legal representatives, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment has been delivered to the insurer at his principal place of business.

(3) The date on which the notice referred to in sub-section (2) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment.

(4) Upon the receipt of the notice referred to in sub-section (2), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of a fee not exceeding one rupee, grant a written acknowledgment of the receipt of such notice, and any such acknowledgment shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(5) From the date of the receipt of the notice referred to in sub-section (2) the insurer shall recognise the transferee or assignee as the only person entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the policy-holder was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**New Proviso to Clause 30:**

*Add the following proviso at the end of Clause 30:—*

*“ Provided that the Superintendent of Insurance  
may for sufficient cause dispense with all or any of the  
requirements of this Section.”*

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Same remarks apply as in Clause 28 sub-  
clause (3).**

Nomination  
by policy-  
holder.

32. (1) The holder of a policy of life insurance may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement, as the case may be.

(3) The insurer may charge a fee not exceeding one rupee for registering any such endorsement and shall furnish to the policy-holder a written acknowledgment of having done so.

(4) A transfer or assignment of a policy made in accordance with section 31 shall automatically cancel a nomination.

(5) Where the policy matures for payment during the lifetime of the policy-holder or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy holder or his heirs or legal representatives, as the case may be.

(6) Where the nominee or, if there are more nominees than one, a nominee or nominees survive the policy holder, the amount secured by the policy shall be payable to such survivor or survivors.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**Clause 31—New sub-Clause (6):**

*Add the following sub-Clause (6) to Clause 31:—*

*“Notwithstanding anything contained to the contrary in the Transfer of Property Act of 1882 or under any Law whether personal or otherwise for the time being in force, a conditional transfer or assignment of a policy of Life Insurance shall be valid and binding on the parties thereto.”*

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

The Committee were doubtful whether under the Clause as framed any conditional assignment was permissible under the Act or under the Transfer of Property Act or under the Mahomedan Law and with a view to remove such doubts the Committee have suggested the addition of a new sub-Clause (6) to Clause 31. It is however customary at present to make conditional assignments somewhat on the following lines:

*“Out of natural love and affection I hereby assign all my right, title and interest in the within policy to my wife if she survives.”*

This clause should also be given effect to in case of existing policies even though the assignment may be of a previous date.

**Clause 32—New sub-Clause (7):**

*Add the following sub-Clause (7) to Clause 32:—*

*“Notwithstanding anything to the contrary contained in the Insolvency Law for the time being in force in British India, a nomination made by the assured under this Section in favour of his wife and/or husband and/or children and/or child shall be irrevocable and shall not be voidable or void as against his creditors or as against the person in whom the estate of such assured vests on his insolvency, provided that such nomination is made at least six months before his death.”*

The Committee feel that in the interests of blood relations of the policyholders for whose benefit the life policy is always intended, such a provision is essential. The primary aim of life assurance is to give security to the blood relations. Now that the law would permit nominations, a large number of policyholders would take advantage of that and a false sense of security with respect to his blood relations would be created in the case when the policyholder dies in insolvent circumstances.

**Commission and Rebates and Licensing of Agents.**

Prohibition  
of payment  
by way of  
commission  
or otherwise  
for procuring  
business.

33. (1) No insurer shall after the expiry of three months from the commencement of this Act pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business or for collecting premiums from policy-holders to any person except an insurance agent licensed under section 35:

Provided that a payment of overriding commission on the premium income received by or on the amount insured by or on the profits of the whole or any portion of the business of an insurer, made to a managing agent, managing director, manager or other officer of the insurer by way of special or additional remuneration shall not be deemed to be a payment prohibited by this subsection.

(2) No insurer shall pay or contract to pay to any insurance agent by way of commission or as remuneration in any form an amount exceeding in the case of life insurance business forty per cent. of the initial premium payable on any policy or policies effected through him and five per cent of a renewal premium or in the case of business of any other class twenty-five per cent. of the premium.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 33 (1):**

Delete the words "from policyholders" in line 6.

**Clause 33. Proviso to sub-Clause (1):**

Between the words "income" and "received" in line 2 add the following words:—

"in respect of business of Life Insurance" and also between the words "remuneration" and "shall" in line 6 add the following words:—

"or a payment to a Director of an Insurer being a corporate body in respect of any business of insurance introduced by him other than the business of Life Insurance."

The amended proviso will read as follows—

"Provided that a payment of overriding commission on the premium income in respect of business of Life Insurance received by or on the amount insured by or on the profits of the whole or any portion of the business of an insurer, made to a managing agent, managing director, manager or other officer of the insurer by way of special or additional remuneration or a payment to a Director of an Insurer being a corporate body in respect of any business of insurance introduced by him other than the business of Life Insurance, shall not be deemed to be a payment prohibited by this sub-section."

**Clause 33 (2):**

Delete the whole sub-Clause (2) and substitute thereof the following sub-Clause (2):—

"No insurer shall pay or contract to pay to any Insurance Agent by way of commission or as remuneration in any form an amount exceeding the undermentioned percentages in respect of different classes of insurance business:—

- (i) In the case of life insurance business 40 per cent. of the first year's premium payable on any policy or policies effected through him and 5 per cent. of the renewal premium.
- (ii) In the case of fire and/or motor insurance 25 per cent. of the premium;
- (iii) In the case of business of any other classes of insurance 15 per cent. of the premium.

The Committee feel that Directors of an Insurance Company are generally controlling a large amount of business of insurance other than life and the Company will not be able to secure such business if they are required to obtain licenses with a view to enable them to earn commission.

The question of limitation of commissions has evoked much discussion. The Government have indeed taken a bold step in suggesting the limitation of commission under this section. Our Committee have very carefully considered this question and they too have come to the conclusion that the disadvantages connected with the limitation of commissions are outweighed by the advantages offered by it. There are some grounds for suggesting that it might be better if by some formulae the total expenses of management could be limited. There are however objections to this. The Committee feel that limitation of commissions would go a great way in controlling the total expenses of management. The commissions in the general business have assumed large proportions and in many cases they are quite uneconomic. Several Tariff Associations have repeatedly tried to check commissions but have always failed to do so. If, therefore, commissions are limited under the Act, the step is bound to be successful. The Bill prohibits rebating which also has assumed great proportions. Rebates would be checked if commissions are reduced. Prohibition of rebates and limitation of commissions should go hand in hand.





Life Assurance business is on a different footing from other classes of insurance. Every company doing life assurance business has to undergo periodical valuations (Clause 11 of the Bill). Some members of our Committee were of the opinion that if the Bill provides for reasonably strict basis of valuation, the commissions need not be limited under the Bill. The majority view, however, was that the valuations would be done at the end of the fifth year and the Superintendent would know the results of the working after six years are over, and the results would be published in the Blue Book after seven years are completed. Thus if a company is spending very large amounts in payment of commissions, the public will know the position resulting from it at a very late stage and a lot of harm might be done to the company in the meanwhile. The Committee felt that the limitation of commissions together with the new sub-Clause 33 (2-a) suggested by the Committee will be helpful to the Companies in addition to the strict valuation rules. The Committee are aware of the views expressed by the Indian Life Offices Association in this connection. That Association also agrees with the underlying object but considers that the suggestion contained in the clause "is not a practical proposition at all." Some objections of that Association will be removed by the new sub-Clause 33 (2-a) suggested by our Committee. Our Committee are also agreeable to the suggestion that "some regulation must be made for fixing the basis of valuation of each Company" and they believe that Clause 11 read with Schedule IV provides such a regulation.

As regards business other than Life Insurance, it appears to have been overlooked that commissions are not on a uniform basis for all classes of business, and that it is a world-wide custom to differentiate. In our proposed sub-Clauses (2) (i) (2) (ii) and (2) (iii) we have suggested maximum rates of commission which approximately represent what is customary when business is carried on without reckless and uneconomic competition.

The Committee have come to the conclusion that an Insurer carrying on the business of Life Insurance should be given liberty to pay an additional remuneration to Chief Agents or District Agents inasmuch as a majority of companies carrying on the business of Life Insurance in India have established Chief Agencies for the purpose of organising the Districts and Provinces and it will be inequitable if such Chief Agents or District Agents are placed on the same footing as an ordinary

**Clause 33—New sub-Clause (2-a):**

*Add the following new sub-Clause 2 (a) to Clause 33:—*

*"Notwithstanding anything to the contrary contained in sub-Clause (2) in the case of life insurance business an Insurer shall be at liberty to pay an additional remuneration to a Chief Agent or a District Agent at a rate not exceeding 20 per cent. on the first year's premium and 2½ per cent on the renewal premium in order to enable such Chief Agent or District Agent to perform the duties*



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

*and functions of a Chief Agent and/or District Agent in Districts not controlled by a Branch Office. For the purposes of this sub-section an Insurer shall not be entitled to appoint more than 35 Chief and/or District Agents in India as defined by Section 311 of the Government of India Act of 1935."*

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

insurance agent. The Committee have felt the necessity of such a provision in the case of Life Insurance Companies, inasmuch as the duties imposed upon Chief Agents or District Agents in respect of organisation, inspection, etc., are very onerous. For general insurance business such a provision is not necessary.

Most of the life companies, particularly the younger companies have developed on the Chief Agency system. Most of them cannot afford to convert this system into the Branch system which is bound to be costlier in the early years. Our Committee have therefore suggested the new sub-Clause (2-a) to Clause 33. The provisions contained in this sub-clause will be very equitable and helpful to life companies working on the Chief Agency system.

*In this connection it will be pertinent to quote the opinion of the Indian Merchants' Chamber of Bombay who reflect commercial opinion in the matter:—*

*"My Committee welcome and support the principle of limiting the scales of commission both in life and general insurance business. In the interests of the policyholders and of insurance business, it is necessary that the middlemen's profit should be limited to minimum. My Committee have heard it suggested that such a fixation of rates of commission by statute would be interference in the internal working of companies transacting insurance business. They cannot subscribe to this view. The evidence of unhealthy and unbridled competition leading to uneconomic rates of commission confirms their opinion that both in national interests and in the interests of companies doing insurance business the State should step in and prevent such a race for procuring business. The criticism that such a regulation is an avoidable interference in the day to day management of the affairs of insurance companies will not cut ice. There are various instances in which the State has enacted laws regulating the internal affairs of a business. The United States of America present the extreme example of active interference by the various Codes and Regulations laid down for the conduct of business in that country. Nearer home, in regard to rubber and tea by the restriction schemes, the Government of India wish to ensure the progress of these industries. Not long ago, similar requisitions for schemes of restriction in regard to Coal and Jute were also placed before Government. Such critics cannot also be unaware of the fact that in the case of Sugar industry in order to protect the interests of the cultivator, the State has prescribed the minimum prices payable to suppliers of sugarcane. If such prices had been left to be fixed by the free-play of the factors of supply-and-demand, it was feared that*

(3) If default is made in complying with the provisions of this section the insurer and every director manager or officer of the insurer knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

*the grower of the cane would not have secured an adequate return for his labour. The present Bill itself seeks to regulate the business of insurance in so many directions, and there is no reason why such a regulation should not extend to the procedure and expenses in regard to securing insurance business. My Committee are convinced that voluntary action by insurers limiting the scales of commission would not be practicable or possible in the existing state of affairs, and they therefore strongly support the proposal to make suitable provisions towards this end in the statute itself.*

**Clause 33—New sub-Clause (2-b):**

*Add the following sub-Clause 2 (b) to Clause 33:—*

*“ Nothing contained in sub-Sections (1) and (2) shall be deemed to affect reinsurance contracts or arrangements between Head Offices which contracts or arrangements are hereby expressly excluded from the operations of sub-Sections (1) and (2).”*

The Committee feel that re-insurance contracts and arrangements should be excluded from the operations of this Section for obvious reasons.

**Clause 33—New sub-Clause (2-c):**

*Add the following sub-Clause 2 (c) to Clause 33:—*

*“ All existing contracts and arrangements for payment of commission or remuneration made by an Insurer with an Insurance agent or a Chief or District Agent at a rate higher than that specified in sub-Sections 2 and 2 (a) shall be void and of no effect.”*

The Committee feel the necessity of such a provision being inserted in the Act as some of the Insurers might have existing contracts with their agents for payment of commission on future business at a rate higher than the rate mentioned in this sub-section.

**Clause 33—New sub-Clause (2-d):**

*Add the following sub-Clause 2 (d) to Clause 33:—*

*“ Every insurer shall furnish along with the annual returns to be filed by him under Sections 12 and 13 with the Superintendent of Insurance a certificate signed by the principal officer of the Insurer that no Insurance Agent or Chief Agent or District Agent or other representative in India or any other person in India or elsewhere directly or indirectly connected with such Insurance Agent, Chief Agent, District Agent or representative, has been paid by such Insurer directly or indirectly commission or remuneration at a rate higher than the percentages mentioned in sub-Sections (2) and 2 (a).*

The addition of this sub-Clause is necessary if insurers are to strictly observe the limit of commissions mentioned in this section.

NOTES

CLAUSES OF GOVERNMENT BILL

Prohibition  
of rebates.

34. (1) No insurer, and no insurance agent, acting on behalf of an insurer, shall allow or offer to allow either directly or indirectly as an inducement to any person to take out or renew a policy of insurance any rebate of the premium payable on the policy except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 34 (1):**

Delete the words: "acting on behalf of an insurer" in lines one and two and substitute the following:—

"in the case of business other than life"

Between the words "Policy" and "except" in line 5 add the following words:—

"nor shall such a person receive such rebate."

The amended clause will read as follows:—

"No insurer, and no insurance agent, in the case of business other than life, shall allow or offer to allow either directly or indirectly as an inducement to any person to take out or renew a policy of insurance any rebate of the premium payable on the policy nor shall such a person receive such rebate except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer."

**Clause 34—New Sub-Clause 34 (1) A:**

Add the following new sub-clause 34 (1) A:

"No life insurance company shall make or permit any distinction or discrimination in favour of individuals between the Insured of the same class and equal expectation of life in the amount of premiums charged or in the bonuses payable on the policy, nor shall any agent of any such company assume to make any contract of insurance, or agreement as to such contract, whether in respect of the premium to be paid or otherwise, other than as plainly expressed in the policy issued, nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to insure, any rebate of premium, payable on the policy, or any special favour or advantage in the bonuses or other "benefits to accrue thereon, or any inducement whatever intended to be in the nature of a rebate of premium; except such rebate as may be allowed in accordance with the published prospectus or tables of insurance, nor shall any person knowingly receive as such inducement any such rebate of premium or other such special favour, advantage, benefit, consideration or inducement."

The evil of rebating in India has assumed large proportions. The Government deserve the thanks of Insurers as well as the general public for tackling the problem bravely by introducing Clause 34 in the Bill. It is well known that Insurance Associations have tried to check this evil but have failed as they had no authority behind them. That Insurance Companies are against rebating can easily be seen from the efforts made by them to prohibit the same. They will not therefore be the willing parties to this evil. They are obliged to give rebates by the persons who receive such rebates. In order therefore to check this evil effectively it is necessary to impose a penalty on the recipient of the rebate. This clause will also prevent companies from taking away the business of other companies by offering rebates. A similar provision has been made in the Canadian Act 1928—Sections 83, 84 & 127—which are as follows:—

"No such life insurance company shall make or permit any distinction or discrimination in favour of individuals between the insured of the same class and equal expectation of life in the amount of premiums charged, or in the dividends payable on the policy, nor shall any agent of any such company assume to make any contract of insurance or agreement as to such contract, whether in respect of the premium to be paid or otherwise, other than as plainly expressed in the policy issued; nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give, or offer to pay, allow or give, directly or indirectly as inducement to insure, any rebate of premium payable on the policy, or any special favour or advantage in the dividends or other benefits to accrue thereon, or any advantage by way of local or advisory directorship where actual service is not bona fide performed, or any paid employment or contract for services of any kind, or any inducement whatever intended to be in the nature of a rebate of premium; nor shall any person knowingly receive as such inducement any such rebate of premium or other such special favour, advantage, benefit, consideration or inducement; nor shall any such company or any officer, agent, solicitor or representative thereof give, sell or purchase as such inducement, or in connection with such insurance, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership." (Section 83).

"Each and every person violating the provisions of the last preceding section shall for a first offence be liable to a penalty of

(2) If default is made in complying with the provisions of this section by an insurer, the insurer and any director, manager or officer of the insurer, knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees and if the default is made by an insurance agent he shall be punishable with fine which may extend to one hundred rupees.



double the amount of the annual premium on the application or policy in respect of which such violation took place, but in no case shall such penalty be less than one hundred dollars, and for a second or subsequent offence such person shall be liable to a penalty of double the amount of such annual premium, but in no case less than two hundred and fifty dollars." (Section 84).

"No agent, broker or other person representing or doing business in Canada for any fire insurance company licensed under this Act shall, in any way, directly or indirectly, divide, or offer to divide, his commission or other remuneration with, or give or offer to give, any part of his commission or other remuneration, or any other matter or thing of value to any person whose property he may be insuring or seeking to insure, or to any person having or claiming or appearing to have any influence or control as to the placing of such insurance, as an inducement to insure with him or in or with a company employing him or represented by him; nor shall any person knowingly receive as such inducement any such commission or other remuneration or any rebate of premium or other consideration intended to be in the nature of a rebate of premium." (Section 127).

**Clause 34 (2):**

Delete the last three lines from the words "and if the default" . . . . . "Rupees."  
and between the words "an insurer" and the word "the" in line 2 add the following words:—

"insurance agent and/or recipient of such rebate."  
and between the words "insurer" and "knowingly" in line 3 add the following words:—

"or the insurance agent or such recipient."

The amended clause will read as follows:—

"(2) If default is made in complying with the provisions of this Section by an insurer, insurance agent and/or recipient of such rebate, the insurer and any director, manager or officer of the insurer or the insurance agent or such recipient, knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees."

**New Clause 34 A:**

Add the following new Clause 34 A:—

"No insurer carrying on the business of Life Insurance shall offer or charge to an assured rates, concessions and other advantages except such rates, concessions and advantages as are allowed, permitted and certified by a qualified Actuary and shall furnish to the Superintendent of Insurance a copy of such rates, concessions and advantages and shall from time to time inform him about the changes or additions from time to time made in such rates, concessions and advantages."

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The Committee feel that with a view to evade the provisions of Section 34 some Insurers might give lower rates than those allowed by a qualified Actuary or fixed by the recognised Tariff Associations and thereby indirectly grant rebates to the Insured. If a Tariff Association fixes the rates, they would be fixed on collective experience and the element of rebating would disappear from it. The Committee therefore feel the necessity of adding new Clauses 34-a and 34-b. Instances are known

Licensing of  
insurance  
agents.

35. (1) The Superintendent of Insurance may, in the prescribed manner and on payment of the prescribed fee, issue to any individual making an application under this section a licence to act as an insurance agent for the purpose of soliciting or procuring insurance business and collecting insurance premiums.

(2) An application under this section shall be countersigned by at least one insurer registered under this Act.

(3) A licence issued under this section shall entitle the holder to act as an insurance agent for any registered insurer by whom he may be employed.

(4) If it is found by any civil or criminal Court of competent jurisdiction that an insurance agent—

- (a) has been guilty of criminal misappropriation, or criminal breach of trust, or cheating, or
- (b) has knowingly contravened any provision of this Act,

then, without prejudice to any other penalty to which he may be liable, the Superintendent of Insurance may cancel the licence issued to him under this section.

Register of  
insurance  
agents.

36. (1) Every insurer shall maintain a register showing the name and address of every licensed insurance agent employed by him and the date on which his employment began and the date, if any, on which he ceased to be so employed.

(2) Any person not holding a licence issued under section 35 who acts as an insurance agent for any insurer shall be punishable with fine which may extend to one hundred rupees and any insurer who knowingly employs as an insurance agent any person not so licensed shall be punishable with fine which may extend to five hundred rupees.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**New Clause 34 B:**

*Add the following new Clause 34 B:—*

*"No insurer carrying on all or any of the classes of insurance business other than life business shall offer or charge to an insured rates lower than those from time to time fixed if any by the recognised Tariff Associations established at various places in India."*

in the past where Life Insurance rates were prepared by promoters of Life Companies who were not qualified actuaries. Such a step is a leap in the dark and detrimental to the interests of the Policyholders. The Canadian Act also requires life tables to be certified by a qualified Actuary.

Our Committee welcome the provision for the licensing of insurance agents. These agents have a double duty to perform—duty to the Company which they represent and duty to the policy-holders for whom they canvass. It is therefore necessary to see that they take to their duties very seriously. In life insurance the policyholders take long term contracts mainly confiding in the representations and statements of the agents who can render continuous service to their clients. It is therefore necessary that the agents should be licensed. Licensing will give a good status to the Agents.

**Clause 35—New sub-Clause 3 (a):**

*Add the following new sub-Clause 3 (a) to Clause 35:—*

*"A license issued under this Section shall expire on the 31st day of March in each year and may be renewed from year to year on payment of a renewal fee not exceeding Rs. 5 subject however to any qualification or limitation which is considered expedient."*

In order that the Superintendent may exercise proper control over Insurance Agents the Committee deem it expedient that the period of the license should be fixed for one year only and may be renewed from year to year on payment of a nominal renewal fee not exceeding Rs. 5.

**Clause 36 (2):**

*Delete the words "for any insurer" in lines 2 and 3.*

## Special Provisions of Law

Application  
of British  
Indian law  
to policies  
issued in  
British India.

37. The holder of a policy of insurance issued in British India after the commencement of this Act shall have the right, notwithstanding anything to the contrary contained in the policy or in any agreement relating thereto, to receive payment in British India of any sum secured thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in British India; and if the suit is brought in British India any question of law arising in connection with any such policy shall be determined according to the law in force in British India.

Payment of  
money into  
Court.

38. (1) Where in respect of any policy of life insurance maturing for payment an insurer is of opinion that by reason of conflicting claims to or insufficiency of proof of title to the amount secured thereby or for any other adequate reason it is impossible otherwise for the insurer to obtain a satisfactory discharge for the payment of such amount, the insurer may pay the amount into the High Court of the Province in which is situated the place at which such amount is payable under the terms of the policy or otherwise.

(2) A receipt granted by the Court for any such payment shall be a satisfactory discharge to the insurer for the payment of such amount.

(3) An application for permission to make a payment into Court under this section shall be made by a petition verified by an affidavit signed by a principal officer of the insurer setting forth the following particulars, namely:—

- (a) the name of the deceased and his address;
- (b) the date and place of his death;
- (c) the nature of the policy and the amount secured by it;
- (d) the name and address of each claimant so far as is known to the insurer with details of every notice of claim received;
- (e) the reasons why in the opinion of the insurer a satisfactory discharge cannot be obtained for the payment of the amount; and
- (f) the address at which the insurer may be served with notice of any proceeding relating to disposal of the amount paid into Court.

**Clause 37—New Proviso:**

*Add the following new proviso to Section 37:—*

*“ Provided that nothing contained in this Section shall apply to re-insurance contracts or arrangements between Head Offices of Insurers inter se.”*

**Clause 38—3 (a):**

*After the word “ address ” in sub-Clause 3 (a) add the following words:—*

*“ at the time of his death. ”*

(4) An application under this section shall not be entertained by the Court—

- (a) if the application is made before the expiry of six months from the death of the insured, or
- (b) if before permission is granted for the payment into Court notice is received by the insurer that proceedings have been initiated in a Court of competent jurisdiction for the grant of administration of the estate of the deceased.

(5) If it appears to the Court that a satisfactory discharge for the payment of the amount cannot otherwise be obtained by the insurer it shall allow the amount to be paid into Court and shall invest the amount in Government securities pending its disposal.

(6) The insurer shall transmit to the Court every notice of claim received after the making of the application under sub-section (3) and shall make to the Court any payment required by the Court as costs of the proceedings or otherwise in connection with the disposal of the amount paid into Court.

(7) The Court shall cause notice to be given to every ascertained claimant at the cost of the insurer of the fact that the amount has been paid into Court and shall cause notice at the cost of any claimant applying to withdraw the amount to be given to every other ascertained claimant.

(8) The Court shall decide all questions relating to the disposal of claims to the amount paid into Court and may, if satisfied after giving the insurer an opportunity of being heard that there was no sufficient justification for the payment into Court, order the insurer to pay costs or interest or both.

#### Winding Up.

Winding up by the Court. VII of 1913. 39. (1) The Court may order the winding up in accordance with the Indian Companies Act, 1913, of any insurance company and the provisions of that Act shall, subject to the provisions of this Chapter, apply accordingly.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 38 (6):**

*Delete the following words from sub-Section (6):—  
"and shall make to the Court any payment re-  
quired by the Court as costs of the proceedings or otherwise  
in connection with the disposal of the amount paid into  
Court."*

The very object underlying this Section will be frustrated if the Insurer is made to bear the costs and the Committee feel that there is no reason why an Insurer should be mulcted in costs when there is sufficient cause for his bringing the amount into Court.

**Clause 38 (7):**

*Delete the words "at the cost of the insurer" in lines 2.*

**Clause 38 (8):**

*Delete sub-Clause (8) of Clause 38 and substitute the following:—*

*"In the event of the Court being satisfied that there was sufficient justification for payment of the amount by an Insurer into Court the Court shall order all costs incurred by the Insurer for bringing the amount into Court to be paid out of the moneys brought into Court in priority to the claims of the Claimants for their claims including the costs incurred by them, unless the Court is satisfied after giving the insurer an opportunity of being heard that there was no sufficient justification for the payment into Court in which event the Court may order the insurer to pay costs or interest or both."*

(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of an insurance company—

(a) if with the sanction of the Court previously obtained a petition in this behalf is presented by shareholders not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or by not less than twenty policy-holders holding policies that have been in force for not less than three years and are of the total value of not less than twenty thousand rupees; or

(b) if with the previous sanction of the Governor General in Council the Superintendent of Insurance applies in this behalf to the Court on any of the following grounds, namely:—

(i) that the company has failed to deposit or to keep deposited with the Reserve Bank of India the amounts required by section 5,

(ii) that the company having failed to comply with any requirement of this Act has continued such failure for a period of one month after notice of such failure has been conveyed to the company by the Superintendent of Insurance,

(iii) that it appears from the returns furnished under the provisions of this Act or from the results of any investigation made thereunder that the company is insolvent, or

(iv) that the continuance of the company is prejudicial to the interests of the policy-holders.

Voluntary winding up. II of 1913. 40. Notwithstanding anything contained in the Indian Companies Act, 1913, an insurance company shall not be wound up voluntarily except for the purpose of effecting an amalgamation or a re-construction of the company, or on the ground that by reason of its liabilities it cannot continue its business.

Valuation of liabilities. 41. (1) In the winding up of an insurance company or in the insolvency of any other insurer the value of the assets and the liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator or receiver in insolvency thinks fit, subject, so far as applicable, to the rule contained in the Sixth Schedule and to any directions which may be given by the Court.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 39 (2) (a):**

*Delete the following words from Section 39, sub-Section (2) (a):—*

*“Not less than twenty policyholders holding policies that have been in force for not less than three years and are of the total value of not less than twenty thousand rupees.”*

*and substitute therefor the following:—*

*“One hundred holders of policies of Life Insurance or one per cent of the total number of holders of policies of Life Insurance whichever is more.”*

The Committee feel that the number of policyholders who are entitled to apply should be a large number, in view of the fact that if the said sub-section is allowed to be passed into law as it stands, an unscrupulous agent can secure the requisite number of policyholders to apply to the Superintendent of Insurance with the object of harassing the Company. The number suggested by our Committee appears much larger but really it will not be so because even new policyholders not of 3 years' standing may join in the requisition.

**Clause 39 (2) (b) (ii):**

*Delete the words “one month” in lines 3 and 4 and substitute therefor the following words “three months.”*

(2) For the purposes of any reduction by the Court of the amount of the contracts of any insurance company the value of the assets and liabilities of the company and all claims in respect of policies issued by it shall be ascertained in such manner and upon such basis as the Court thinks proper having regard to the rules aforesaid.

(3) The rule in the Sixth Schedule shall be of the same force and may be repealed, altered or amended as if it were a rule made in pursuance of section 240 of the Indian Companies Act, 1913, and rules may be made under that section for the purpose of carrying into effect the provisions of this Act with respect to the winding up of insurance companies.

Application  
of surplus  
assets of life  
insurance  
fund in  
liquidation  
or insolvency.

42. (1) In the winding up of an insurance company and in the insolvency of any other insurer the value of the assets and the liabilities of the insurer in respect of life insurance business shall be ascertained separately from the value of any other assets or any other liabilities of the insurer and no such assets shall be applied to the discharge of any liabilities other than those in respect of life insurance business except in so far as those assets exceed the liabilities in respect of life insurance business.

(2) In the winding up of an insurance company carrying on the business of life insurance or in the insolvency of any other insurer carrying on such business where any proportion of the profits of the insurer was before the commencement of the winding up or insolvency allocated to policy-holders, if, when the assets and liabilities of the insurer have been ascertained there is found to be a surplus of assets over liabilities (hereinafter referred to as a prima facie surplus) there shall be added to the liabilities of the insurer in respect of the life insurance business an amount equal to such proportion of the prima facie surplus as is equivalent to such proportion of the profits allocated to shareholders and policy-holders as was allocated to policy-holders during the ten years immediately preceding the commencement of the winding up and the assets of the insurer shall be deemed to exceed his liabilities only in so far as those assets exceed those liabilities after such addition:

Provided that, if in any case there has been no such allocation or if it appears to the Court that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities of the insurer in respect of the life insurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the Court may direct.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

41

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Winding up  
of secondary  
companies.

43. (1) Where the insurance business or any part of the insurance business of an insurance company has been transferred to another insurance company under an arrangement in pursuance of which the first mentioned company (in this section referred to as the secondary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section referred to as the principal company) then if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two companies and make provision for such other matters as may seem to the Court necessary with a view to the companies being wound up as if they were one company.

(2) The commencement of the winding up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding up of the secondary company.

(3) In adjusting the rights and liabilities of the members of the several companies among themselves the Court shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company or as near thereto as circumstances admit.

(4) Where any company alleged to be secondary is not in process of being wound up at the same time as the principal company to which it is alleged to be secondary, the Court shall not direct the secondary company to be wound up, unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is secondary to the principal company and that the winding up of the company in conjunction with the principal company is just and equitable.

(5) An application may be made in relation to the winding up of any secondary company in conjunction with the principal company by any creditor of, or person interested in, the principal or secondary company.

(6) Where a company stands in the relation of a principal company to one insurance company and in the relation of a secondary company to some other insurance company or where there are several insurance companies standing in the relation of secondary companies to one principal company, the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

42

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Schemes for  
partial  
winding up of  
insurance  
companies.

44. (1) If at any time it appears expedient that the affairs of an insurance company in respect of any class of business comprised in the undertaking of the company should be wound up but that any other class of business comprised in the undertaking should continue to be carried on by the company or be transferred to another insurer, a scheme for such purposes may be prepared and submitted for confirmation of the Court in accordance with the provisions of this Act.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding up), for any future rights of every class of policyholders in respect of their policies and for the manner of winding up any of the affairs of the company which are proposed to be wound up and may contain provisions for altering the memorandum of the company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(3) The provisions of this Act relating to the valuation of liabilities of insurers in liquidation and insolvency and to the application of surplus assets of the life insurance fund in liquidation or insolvency shall apply to the winding up of any part of the affairs of a company in accordance with the scheme under this section in like manner as they apply in the winding up of an insurance company, and any scheme under this section may apply with the necessary modifications any of the provisions of the Indian Companies Act, VII of 1913, 1913, relating to the winding up of companies.

(4) An order of the Court confirming a scheme under this section whereby the memorandum of a company is altered with respect to its object shall as respects the alteration have effect as if it were an order confirmed under section 12 of the Indian Companies Act, 1913, and the provisions of sections 15 and 16 of that Act shall apply accordingly.

Return of  
deposits.

45. In the winding up of an insurance company and in the insolvency of any other insurer the liquidator or assignee as the case may be shall apply to the Court for an order for the return of the deposit made by the company under section 5 and the Court shall on such application order a return of the deposit subject to such terms and conditions as it shall direct.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Notice of  
policy-  
values.

46. In the winding up of an insurance company and in the insolvency of any other insurer the liquidator or assignee as the case may be in the case of all persons appearing by the books of the company to be entitled to or interested in the policies granted by the company shall ascertain the value of the liability of the company to each such person and shall give notice of such value to those persons in such manner as the Court may direct and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in such manner and within such time as may be specified by a rule or order of the Court.

Power of  
Court to  
reduce  
contracts  
of  
insurance.

47. (1) Where an insurance company is in liquidation or any other insurer is insolvent the Court may make an order reducing the amount of the insurance contracts of the company or other insurer upon such terms and subject to such conditions as the Court thinks just.

(2) Where a company carrying on the business of life insurance has been proved to be insolvent, the Court may if it thinks fit in place of making a winding up order reduce the amount of the insurance contracts of the company upon such terms and subject to such conditions as the Court thinks fit.

(3) Application for an order under this section may be made either by the liquidator or by or on behalf of the company or by a policyholder, and the Superintendent of Insurance and any person whom the Court thinks likely to be affected shall be entitled to be heard on any such application.

#### Special provisions relating to non-Indian Companies.

Power of  
Governor-  
General-in-  
Council to  
impose  
reciprocal  
disabilities  
on non-Indian  
Companies.

48. Where by the law or practice of the country in which an insurer carrying on insurance business in British India is constituted, incorporated or domiciled, insurance companies incorporated in British India are required as a condition of carrying on insurance business in that country to comply with any requirement whether as to the keeping of assets in that country or otherwise which is not imposed upon insurers of that country under this Act, the Governor-General-in-Council may, by notification in the Gazette of India, direct that the same requirement, or requirements as similar thereto as may be, shall be imposed upon insurers of that country as a condition of carrying on the business of insurance in British India.



Clause 48:

Add between the words "whether" and "as" in line 7 the following words:—

"as to the keeping of initial deposits or"

Delete the word "may" in line 10 and substitute therefor the word "shall."

The amended Clause would read as follows:—

"Where by the law or practice of the country in which an insurer carrying on insurance business in British India is constituted, incorporated or domiciled, insurance companies incorporated in British India are required as a condition of carrying on insurance business in that country to comply with any requirement whether as to the keeping of initial deposits or as to the keeping of assets in that country or otherwise which is not imposed upon insurers of that country under this Act, the Governor-General-in-Council shall, by notification in the Gazette of India, direct that the same requirement, or requirements as similar thereto as may be, shall be imposed upon insurers of that country as a condition of carrying on the business of insurance in British India."

The Committee feel that for the self respect of the Indian Commercial community no discretion should be left to the Governor-General-in-Council but that it should be made obligatory for him to direct that the same requirements should be imposed upon insurers of a foreign country as a condition of carrying on business of insurance in British India, as are imposed upon Indian Insurance Companies in such foreign countries. The Committee further feel that in order to give effect to the provisions of this Section an "Indian Company" should be defined as suggested before. Failing such a definition, subsidiary companies fully controlled by foreign insurers may be promoted in India to avoid reciprocal disabilities.

## PART III.

## Provident Societies.

Definition of  
"Provident  
society."

51. In this Part "provident society" means a person who, or a body of persons whether corporate or incorporate which, receives premiums or contributions for insuring money to be paid on the happening of any of the following contingencies, namely:—

- (a) the birth, marriage or death of any person;
- (b) the survival by a person of a stated age or contingency;
- (c) failure of issue;
- (d) the occurrence of a social, religious or other ceremonial occasion;
- (e) loss of or retirement from employment;
- (f) disablement in consequence of sickness or accident;
- (g) the necessity of providing for the education of a dependant; and
- (h) any other contingency which may be prescribed.

Application  
of this Part.

52. Nothing in this Part shall apply to a provident society which pays or undertakes to pay on any policy of insurance an annuity exceeding fifty rupees or a gross sum exceeding five hundred rupees or which receives or undertakes to receive by way of premium or contribution under any insurance policy any sum exceeding two hundred and fifty rupees where the said premiums or contributions are payable for one year or a limited number of years, or exceeding twenty-five rupees in any one year where the premiums or contributions are unlimited in number and terminable on death or the occurrence of an uncertain event:

Provided that for the purposes of this section contracts entered into before the commencement of this Act shall not be taken into consideration and provided further that in the case of life insurance business "policy" includes a series of policies on the same life.

Name.

53. No provident society established after the commencement of this Act shall adopt as its name, and no provident society established before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name, any combination of words which fails to include the word "provident" or which includes the word "life."

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

PART III.

**Provident Societies.**

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

PART III.

**Provident Societies.**

**Clause 53:**

*Delete the word "word" in line 7 and substitute therefor the following:—*

*" words "*

*and add at the end of the Section the following words:—*

*" insurance or assurance."*

The Committee feel that from the nature of the business Provident Societies are authorised to carry on, it is necessary that they should not be permitted to use the words "Insurance" or "Assurance" as part of their name.

Insurable  
interest.

54. No provident society shall receive any premium or contribution for insuring money to be paid on the death of any person other than the person paying such premium or contribution or the wife, husband, child, parent, brother or sister of such a person.

Dividing  
business.

55. No provident society shall carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of a distribution, amongst all policies maturing for payment within certain time limits, of a certain portion of the premium income.

Registration.  
V of 1912.

56. (1) No provident society except a provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall receive any premium or contribution until it has obtained from the Superintendent of Insurance a certificate of registration.

(2) Every application for registration shall be accompanied by—

VII of 1913.

(a) a copy of the rules of the society, or, when the society is a company incorporated under the Indian Companies Act, 1913, a copy of the Memorandum and Articles of Association;

(b) a certificate from the Reserve Bank of India that the initial deposit referred to in section 58 has been made; and

(c) a declaration verified by an affidavit that the minimum working capital required by section 57 is available.

(3) The Superintendent of Insurance may, refuse to issue a certificate of registration until he is satisfied that the rules of the society comply with the provisions of this Act and that the minimum working capital required by section 57 is available, but if he is so satisfied he shall register the society and its rules.

(4) The Superintendent of Insurance may, after giving previous notice in writing in such manner as he thinks fit specifying the grounds for the proposed cancellation, cancel a registration made under this section or made under the provisions of the Provident Insurance Societies Act, 1912,—

V of 1912.

(a) if he is satisfied as the result of an inquiry made under section 72—

(i) that the society is insolvent or must necessarily become so, or

(ii) that the business of the society is conducted fraudulently or not in accordance with the rules thereof, or that it is in the interests of the policyholders that the society should cease to carry on business,

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

- (b) if the initial deposit or any of the further deposits required by section 58 has not been made, or
- (c) if the society, having failed to comply with any requirement of this Act, has continued such failure for a period of one month after notice of such failure has been conveyed to the society by the Superintendent of Insurance:

Provided that the Superintendent of Insurance may, if he thinks fit, instead of cancelling a registration under sub-clause (i) of clause (a) of this sub-section make a recommendation to the Court that the contracts of the society should be reduced in such manner and subject to such conditions as he may indicate.

Working capital.

57. No provident society established after the commencement of this Act shall be registered unless it has a paid up capital sufficient to yield a net sum of not less than five thousand rupees as working capital.

Deposits.

58. (1) Every provident society shall, if established before the commencement of this Act within one year from such commencement, or, if established after the commencement of this Act before the society applies for registration under section 56, deposit and keep deposited with the Reserve Bank of India for and on behalf of the Governor-General-in-Council Government securities amounting at the market value of the securities on the date of deposit to five thousand rupees, and shall thereafter make each year a further deposit amounting to not less than one-fifth of the gross premium income for the year until the total amount so deposited and kept in Government securities is fifty thousand rupees.

(2) The provisions of sub-sections (6), (7) & (8) of section 5 and of sub-section (1) of section 6 shall apply to the deposits made under this section as they apply to deposits made by an insurer.

Rules.

59. (1) Every provident society established after the commencement of this Act shall in its rules set forth—

- (a) the name, the object and the location of the registered office of the society;
- (b) the contingencies or classes of contingency on the happening of which money is to be paid;
- (c) the conditions to be complied with before, and the payments to be made on, admission to the society;
- (d) the rates of premium or contribution, and the periods for which or the times at which premiums or contributions are payable;
- (e) the maximum amount payable to a subscriber or policyholder;

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

48

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

## CLAUSES OF GOVERNMENT BILL.

- (f) the amount to which a policyholder or his representative is entitled on the maturity of a policy;
- (g) the circumstances in which a bonus may be paid to a policyholder;
- (h) the nature of the evidence required for the proof of the happening of any contingency on which money is to be paid;
- (i) the circumstances in which policies may be forfeited or renewed and premiums or contributions may be returned by way of surrender value;
- (j) the proportion of the annual income of the society which may be disbursed on the management of the society;
- (k) the principles followed in investing the funds of the society;
- (l) the provisions for appointment of auditors and their remuneration;
- (m) the procedure to be adopted in altering the rules of the society;
- (n) unless these are provided for in the articles of association of a society which is a company incorporated under the Indian Companies Act, 1913,—

VII of 1913.

- (i) the mode of appointment and removal, the qualification and the powers of a director, manager, secretary or other officer of the society;
- (ii) the manner of raising additional capital;
- (iii) the provisions for the holding of general meetings of the members and policyholders and for the powers to be exercised and the procedure to be followed thereat; and
- (o) such other matters as may be prescribed.

V of 1912.

(2) Where the rules of any provident society registered under the Provident Insurance Societies Act, 1912, fail to comply with the provisions of this section the society shall, before the expiry of six months from the commencement of this Act, amend the rules so as to comply with these provisions.

Amendment of rules.

60. (1) No amendment of any rule of a provident society shall be valid until it has been sent to the Superintendent of Insurance and has been registered by him.

(2) The Superintendent of Insurance on being satisfied that the proposed amendment is not contrary to the provisions of this Act shall, unless he is of opinion that the amendment unfairly affects the rights of existing members or policyholders of the society, issue to the society an acknowledgment of the registration of the amended rule.



PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

49

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Supply of copy of rules.** 61. Every provident society shall on demand ~~be~~ free of cost to any member of the society a copy of the rules of the society and to any person other than ~~any~~ member a copy of such rules on the payment of a ~~sum~~ not exceeding one rupee.

**Registered office.** VII of 1913. 62. Every provident society not subject to the ~~directions~~ Companies Act, 1913, shall have an office (on the ~~side~~ of which it shall keep displayed its name in a ~~conspicuous~~ conspicuous position in legible characters) to which all ~~communications~~ communications and notices may be addressed and ~~sent~~ given notice to the Superintendent of Insurance of any ~~change~~ in the location thereof.

**Publication of authorised capital to contain also subscribed and paid up capital.** 63. Where any notice, advertisement or other ~~communication~~ publication of a provident society contains a statement of the amount of the authorised capital of the ~~society~~ society the publication shall also contain a statement of the ~~amount~~ amount of the capital which has been subscribed and the ~~amount~~ amount paid up.

**Registers and books.** 64. Every provident society shall keep at ~~its~~ registered office—

- (a) a register of members in which shall be ~~entered~~ entered the name, address and occupation, if any, of every member of the society;
- (b) a register or record of policies in which shall be ~~entered~~ entered in respect of every policy issued by the society, the name and address ~~of~~ of the policyholder, the date when the policy was effected and a record of any transfer, ~~assignment~~ assignment or nomination of which the society ~~has~~ has notice;
- (c) a register of claims in which shall be ~~entered~~ entered every claim made, together with the ~~date~~ date of the claim, the name and address of the claimant and the date on which the claim is ~~discharged~~ discharged;
- (d) a register of agents in which shall be ~~entered~~ entered the name and address of every agent employed by the society;
- (e) a cash book in which shall be ~~entered~~ entered separately for each class of contingency ~~separately~~ separately specified in section 51 all sums received and expended by the society and ~~other~~ other matters in respect of which the receipt and expenditure takes place;
- (f) a ledger; and
- (g) a journal.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Clause 63:

*Add the following words between the words "author-  
sed" and "capital" in line 3:—  
"or subscribed."*

**Vide the Committee's observations under  
Clause 88 (b).**

Revenue  
account,  
balance sheet  
and annual  
statements.

65. (1) Every provident society shall at the expiry of the calendar year prepare a revenue account and balance sheet in the prescribed form verified in the prescribed manner, together with a report on the general state of the society's affairs and shall cause the revenue account and balance sheet to be audited by an auditor and the auditor shall so far as may be in the audit of a provident society have the powers of and exercise the functions vested in and discharge the duties imposed on an auditor of companies by section 145 of the Indian Companies Act, 1913.

VII of 1913.

(2) Every provident society shall at the expiry of the calendar year prepare with respect to that year—

(a) a statement showing separately for each class of contingency separately specified in section 51—

(i) the number of new policies effected, the total amount secured thereby and the total premium income received in respect thereof and the number of existing policies discontinued during the year with the total amount of the claims represented thereby,

(ii) the total amount of claims made and the total amount paid in satisfaction thereof, and

(iii) the total expenditure by the society in respect of each class of contingency; and

(b) a statement showing details of every insurance effected on a life other than the life of the person insuring.

(3) Until the expiry of two years from the commencement of this Act this section shall apply to provident societies registered before the commencement of this Act under the Provident Insurance Societies Act, 1912, as if the reference to the calendar year were a reference to either the financial year or the calendar year.

Actuarial  
report and  
abstract.

66. (1) Every provident society shall once in every five years or at such shorter intervals as may be laid down by the rules of the society cause an investigation to be made into its financial condition including the valuation of its liabilities by an actuary.

(2) The report of the actuary shall contain an abstract in which shall be stated—

(a) the general principles adopted in the valuation, including the method by which the valuation age of lives was ascertained,

(b) the rate at each age of the mortality assumed and the annuity values used in valuation,

(c) the reserve values held against policies effected,

(d) the rate of interest assumed, and

(e) the provision made for expenses, and shall have appended to it a certificate signed by a principal officer of the society that all material necessary for proper valuation has been placed at the disposal of the actuary.

(3) If the actuary finds that the financial condition of the society is such that no surplus exists for distribution as bonus to the policyholders or as dividend to the shareholders, he shall state in his report whether in his opinion the society is insolvent and, if so, the extent to which in his opinion existing contracts should be modified or existing rates of premium should be adjusted to make good the deficiency in the assets.

Submission of returns to Superintendent of Insurance.

67. (1) The revenue account and balance-sheet with the auditor's report thereon and the report on the general state of the society's affairs referred to in sub-section (1) of section 65, the statements referred to in sub-section (2) of section 65, and the report and abstract referred to in section 66 shall be furnished as returns to the Superintendent of Insurance within three months from the end of the period to which they relate and copies of the revenue account and balance-sheet and the auditor's report thereon and of the report on the general state of the society's affairs shall be sent to any member or policyholder making a written application within fourteen days from the receipt of the application.

VII of 1913.

(2) The provisions of section 14 shall apply to the accounts and balance-sheet of a provident society being a company incorporated under the Indian Companies Act, 1913, as they apply to the accounts and balance-sheet of an insurer.

Actuarial examination of schemes.

V of 1912.

68. (1) Every provident society, established after the commencement of this Act, shall cause every scheme of insurance which it proposes to put into operation, and every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, shall cause any new scheme which it proposes to put into operation after such commencement to be examined by an actuary, and shall not receive any premium or contribution in connection with the scheme until the actuary has certified that the scheme is sound and such certificate has been forwarded to the Superintendent of Insurance.

(2) The provisions of sub-section (1) shall apply to any alteration of a scheme already in operation, but the Superintendent of Insurance may, if he is of opinion that the alteration unfairly affects the interests of existing policyholders, prohibit the alteration, and, if he does so, the society shall not put the altered scheme into operation, unless it first discharges to the satisfaction of the Superintendent of Insurance all its liabilities to those of the existing policyholders who dissent from the alteration.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

(3) Every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, shall as soon as may be and in any event before the expiry of twelve months from the commencement of this Act, submit all schemes of insurance which the society has in operation at the commencement of this Act to examination by an actuary and shall send the report of the actuary thereon to the Superintendent of Insurance.

(4) The report of the actuary shall state in respect of each scheme whether it is actuarially sound and where no actuarial report such as is referred to in section 66 has been made within the two years preceding the examination the report shall also state whether the assets of the society are sufficient to meet its liabilities under the existing schemes, and if not how in the opinion of the actuary the existing contracts should be modified.

(5) If any scheme is reported by the actuary to be actuarially unsound, the Superintendent of Insurance shall give notice to the society prohibiting the operation of the scheme; and the society shall not receive any premium or contribution or effect any policy in connection with the scheme after the expiry of one month from the receipt of such notice.

(6) Where a scheme is discontinued under the provisions of sub-section (5) the society shall, where its assets are sufficient to meet all existing liabilities, set apart out of its assets the sum sufficient in the opinion of the actuary to meet the liabilities incurred under the scheme so discontinued, and where its assets are not so sufficient, within three months from the date of the discontinuance, apply to the Court for a modification of its existing contracts or failing such modification for the winding up of the society.

Separation of  
accounts and  
funds.

69. (1) Where a provident society effects policies of insurance in connection with more than one of the classes of contingency separately specified in section 51, the receipts and payments in respect of each such class shall be recorded in a separate account in the cash book kept in accordance with section 64.

(2) Where a provident society effecting policies of insurance in connection with contingencies specified in clauses (a) and (b) of section 51 or any one of them also effects policies in connection with any other class of contingency there specified, the excess of receipts over payments in respect of the business done in connection with the contingencies specified in clauses (a) and (b) of section 51 shall be carried to, and shall form, a separate fund.

(3) The separate fund referred to in sub-section (2) shall be as absolutely the security of the holders of policies effected in connection with the contingencies specified in clauses (a) and (b) of section 51 as if the society carried on no other business but the effecting of such policies.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

53

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.



Investment of funds. 70. (1) Every provident society shall, unless it already holds invested in Government securities or securities mentioned or referred to in section 20 of the Indian Trusts Act, 1882, not less than sixty per cent. of the total assets of the society, invest all surplus assets in such securities until the total amount so invested amounts to not less than sixty per cent. of the total assets of the society, and shall thereafter keep invested in such securities not less than sixty per cent. of the total assets of the society.

(2) No funds or investments of a provident society shall be kept otherwise than in the name of society.

(3) No loan shall be made out of the assets of a provident society to any director or officer of the society except on the security of a policy of insurance held in the society and no such loan shall be made to any concern of which a director or officer of the society is a director or partner.

(4) Any director or officer of a society which contravenes the provisions of sub-section (3), who is knowingly a party to the contravention, shall without prejudice to any other penalty which he may incur be jointly and severally liable to the society for the amount of the loan, and such amount, together with interest from the date of the loan at such rate not exceeding twelve per cent. per annum as the Superintendent of Insurance may fix, shall on application by the Superintendent of Insurance to any civil court of competent jurisdiction be recoverable by execution as if a decree for such amount had been passed by that court.

Inspection books.

71. The books of every provident society shall at all reasonable times be open to inspection by the Superintendent of Insurance or any person appointed by him in this behalf or by any member of the society.

Inquiry by or on behalf of Superintendent of Insurance.

72. (1) The Superintendent of Insurance may, if he thinks fit, at any time visit the principal office of any provident society and inquire into the solvency of the society and the manner in which the business of the society is conducted or may direct such an inquiry to be made by an auditor or actuary appointed by him.

(2) For the purposes of any such inquiry the Superintendent or the auditor or actuary, as the case may be, shall be entitled to examine all books and documents of the society and may demand from the society or any officer of the society such explanations as he may require on any matter relating to the affairs of the society.

(3) The results of any such inquiry shall be recorded in a report which shall be kept in the office of the Superintendent and shall be open to inspection by any member or policyholder of the society.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

54

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Winding up by Court and voluntary winding up. VII of 1913.** 73. (1) The Court may order the winding up of a provident society being a company incorporated under the Indian Companies Act, 1913, and the provisions of that Act shall, subject to the provisions of this Chapter, apply accordingly.

(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of a provident society, if the registration of the society is cancelled by the Superintendent of Insurance under sub-section (4) of section 56.

**VII of 1913.** (3) A provident society being a company incorporated under the Indian Companies Act, 1913, may be wound up voluntarily in accordance with the provisions of that Act, but shall not be so wound up except for the purpose of effecting an amalgamation or reconstruction of the society or on the ground that by reason of its liabilities it cannot continue its business.

**VII of 1913.** (4) A provident society not being a company incorporated under the Indian Companies Act, 1913, may be wound up voluntarily under this Act if a resolution is passed by the proprietors that the society should be wound up voluntarily for the purpose or on the ground specified in sub-section (3), and the Superintendent of Insurance may, in any case where he has ordered the cancellation of the registration of a society under sub-section (4) of section 56, order the winding up of the society under this Act.

**Reduction of insurance contracts.** 74. The Court may make an order reducing the amount of the insurance contracts of a provident society upon such terms and subject to such conditions as the Court thinks just—

- (a) if the Superintendent of Insurance as an alternative to cancelling the registration of a society under sub-section (4) of section 56 applies to the Court in this behalf;
- (b) if while a society is in liquidation the Court thinks fit; or
- (c) if when a society has been proved to be insolvent the Court thinks fit to do so in place of making an order for the winding up of the society.

**Appointment of liquidator. VII of 1913.** 75. (1) Where a provident society is to be wound up whether under the Indian Companies Act, 1913, or under this Act, the society shall, within seven days from the date of the order of the Court ordering the winding up or the passing of the resolution authorising the winding up, as the case may be, give notice thereof to the Superintendent of Insurance, and, except where the winding up is done by an order of the Court, the Superintendent of Insurance shall appoint the liquidator and shall determine the remuneration to be paid to him.

(2) Any liquidator so appointed may be removed by the Superintendent of Insurance if satisfied that the duties entrusted to him are not being properly discharged.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Powers of liquidator.

76. (1) A liquidator appointed to wind up a society shall have power—

- (a) to institute or defend any legal proceedings on behalf of the society by his name of office;
- (b) to determine the contribution to be made by members of the society respectively to the assets of the society;
- (c) to investigate all claims against the society and to decide questions of priority arising between claimants;
- (d) to determine by what persons and in what proportion the costs of the liquidation are to be borne;
- (e) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;
- (f) to summon, and enforce the attendance of, witnesses and to compel the production of documents by the same means and as far as may be in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908; and
- (g) with the sanction of the Superintendent of Insurance, to employ such establishment and to obtain such assistance from an actuary or an auditor as may be necessary for the discharge of his duties.

V of 1908.

(2) The liquidator shall, for settling the list of contributories and realising the amount of contributions, have the same powers as an official liquidator appointed by the Court for the winding up of a company under the

VII of 1913. Indian Companies Act, 1913.

Procedure at liquidation.

77. (1) As soon as a liquidator is appointed to wind up a society he shall take charge of all property moveable or immoveable of the society and of all its books and documents.

(2) If any proprietor or officer of the society or any other person retains any portion of the assets of the society or fails to deliver to the liquidator any book or document when so required by the liquidator, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and the Court may order the delivery of the assets or book or document to the liquidator.

(3) The liquidator shall within seven days of his appointment send notice by post to all persons who appear to him to be creditors of the society that a meeting of the creditors of the society will be held on a date not being less than fourteen nor more than twenty-one days after his appointment, and at a place and hour to be specified in the notice, and shall also advertise notice of the meeting once in the local official Gazette and once at least in two newspapers circulating in the province in which the society is situated.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

(4) At the meeting so held the creditors shall determine whether an application shall be made for the appointment of any person as liquidator jointly with the liquidator already appointed, or for the appointment of a committee of inspection, and, if they so resolve and an application accordingly is made at any time not later than fourteen days after the date of the meeting by any creditor appointed for the purpose at the meeting, the Superintendent of Insurance shall appoint a suitable person jointly with the liquidator already appointed, and, if so desired, a committee of inspection.

(5) The committee of inspection shall, subject to any prescribed conditions, have a general power of supervision over the acts of the liquidator and shall have the right to inspect his accounts at all reasonable times.

(6) The liquidator shall ascertain as soon as practicable the amount of the society's liability to every person appearing by the society's books to be entitled to or interested in any policy issued by the society, and shall give notice of the amount so found to each such person in the prescribed manner and each such person on receiving such notice shall be bound by the value so ascertained.

(7) The liquidator shall make a valuation of the assets of the society and in estimate of the costs of the winding up, and shall on the basis of these settle the list of contributories.

(8) The liquidator shall apply to the Superintendent of Insurance for an order for the return of the deposit made by the society under section 58 and the Superintendent of Insurance shall on such application order the return of the deposit subject to such terms and conditions as he may think fit.

(9) In administering and distributing the assets of the society the liquidator shall have regard to any direction that may be given by the creditors or contributories at a general meeting or by the Superintendent of Insurance.

(10) The liquidator shall keep books of account in which he shall record the proceedings at all meetings attended by him, all amounts received or expended by him and any other matter that may be prescribed, and these books may, with the sanction of the Superintendent of Insurance, be inspected by any creditor or contributory.

(11) If the winding up continues for more than a year, the liquidator shall summon a meeting of the creditors and contributories at the end of the first year and of each succeeding year, and shall lay before them an account of his acts and dealings and of the conduct of the winding up, and that account together with any views expressed thereon by the meeting shall be forwarded by the liquidator to the Superintendent of Insurance.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.



(12) So far as is not otherwise provided herein or is not otherwise prescribed under this Act the liquidator shall so far as practicable follow the procedure to be followed by an official liquidator appointed by the Court for the winding up of a company under the Indian Companies Act, 1913.

VII of 1913.

Dissolution  
of provident  
society.

78. (1) As soon as the affairs of a provident society are fully wound up the liquidator shall prepare an account of the winding up showing how the winding up has been conducted and the property of the society has been disposed of and shall call a meeting of the members, creditors and contributories for the purpose of laying before it the account and giving any explanation thereof.

(2) Notice of the meeting shall be sent to each person individually and shall be advertised in the local official Gazette and in at least two newspapers circulating in the province in which the society is situated.

(3) Within one week after the meeting the liquidator shall send to the Superintendent of Insurance a copy of the account and shall report to him the holding of the meeting and its date.

(4) The Superintendent of Insurance may return the account to the liquidator if it is incomplete or unsatisfactory and may require the liquidator to carry out any further steps necessary to complete the winding up and the liquidator shall comply with such requirement and shall submit a further report to the Superintendent of Insurance within six months.

(5) If the Superintendent of Insurance is satisfied that the affairs of the society have been fully wound up he shall register the account of the liquidator who shall forthwith make over to the Superintendent of Insurance sums, if any, remaining undisposed of; and on the expiry of three months from the registering of the account the Superintendent of Insurance shall declare the society dissolved and cause the dissolution of the society to be notified in the local official Gazette, and the liquidator shall thereupon be discharged from further responsibility.

(6) If within a period of three years from the date on which any sums have been made over to the Superintendent of Insurance under sub-section (5) an order of a court of competent jurisdiction has not been obtained at the instance of any claimant to such sums for their disposal, the said sums shall become the property of Government.

Nominations  
and assign-  
ments.

79. (1) The provisions of section 31 and section 32 relating to assignment, transfer and nomination in the case of life insurance policies shall, subject to the provisions of this section, apply to policies of insurance issued by any provident society.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

(2) No nomination shall be valid if the person nominated is not the husband, wife, father, mother, child, brother, sister, nephew or niece of the holder of the policy.

(3) The holder of every policy of insurance issued by a provident society after the commencement of this Act, shall when effecting the policy nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death and such nomination shall be incorporated in the text of the policy itself and entered in the register of policies maintained by the society but any such nomination may be revoked or varied by a subsequent nomination.

**Appeals.** 80. (1) An appeal shall lie to the Court within thirty days—

- (a) from an order of the Superintendent of Insurance refusing to register a provident society or any rules or amendments of rules of such society;
- (b) from an order of the Superintendent of Insurance cancelling the registration of a society;
- (c) from an order made by a liquidator appointed under section 75.

(2) Save as provided in sub-section (1) any order made under this Part shall be final and conclusive.

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#### PART IV.

##### Miscellaneous.

**Penalty for non-compliance with Act.**

81. (1) Any insurer who makes default in complying with any requirement of this Act and, where the insurer is a company, any director, manager or other officer of the company, or where the insurer is a firm, any partner of the firm, who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing default, with an additional fine which may extend to five hundred rupees for every day during which the default continues.

(2) Any provident society which makes default in complying with any of the requirements of Part III and any director, manager, secretary or other officer of the society who is knowingly a party to the default, shall be punishable with fine which may extend to five hundred rupees or in the case of a continuing default with fine which may extend to two hundred and fifty rupees for every day during which the default continues.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

PART IV.

Miscellaneous.

PART IV.

Miscellaneous.

Penalty for falsifying documents.

82. If any register, account, balance sheet or other document required by this Act is false in any particular to the knowledge of any person who signs it, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Cognizance of offences.

83. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

Service of notices.

84. (1) Any process or notice required to be served on an insurer shall be sufficiently served if addressed to any person registered with the Superintendent of Insurance as a person authorised to accept notices on behalf of the insurer and left at, or sent by post to, the address of such person as registered with the Superintendent of Insurance.

(2) Any notice or other document which is by this Act required to be sent to any policyholder may be addressed and sent to the person to whom notices respecting such policy are usually sent and any notice so addressed and sent shall be deemed to be notice to the holder of such policy:

Provided that, where any person claiming to be interested in a policy has given to an insurer or to a provident society notice in writing of his interest, any notice which is by this Act required to be sent to policyholders shall also be sent to such person at the address specified by him in his notice.

Power of Governor-General-in-Council to make rules.

85. (1) The Governor-General-in-Council may, subject to the condition of previous publication by notification in the Gazette of India, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the qualifications to be possessed by actuaries;
- (b) the manner in which it shall be determined for the purposes of this Act what is insurance business transacted in British India;
- (c) the manner in which licences to act as insurance agents may be issued;
- (d) the contingencies other than those specified in clauses (a) to (g) of section 51 on the happening of which money may be paid by provident societies;
- (e) the matters other than those specified in clauses (a) to (n) of sub-section (1) of section 59 on which a provident society shall make rules;
- (f) the form of any account, return or register required by Part III and the manner in which such account, return or register shall be verified;

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**Clause 84 (1):**

*Delete the words "left at, or" in line 5.*

*Add between the words "by" and "post" in line  
5 the following words:—*

*"registered"*

This suggestion will eliminate the doubt  
whether the notice was served.

**Clause 84—Proviso:**

*Delete the words "interested in" in line 2 of the  
proviso and substitute the following words:—*

*"assignee of"*

This alteration is necessary as it is other-  
wise difficult to decide who is interested in  
the policy.

(g) subject to the provisions of this Act the fees payable thereunder and the manner in which they are to be collected; and

(h) the conditions and the matters which may be prescribed under sub-sections (5), (10) and (12) of section 77.

(3) All rules made by a Local Government under the provisions of section 24 of the Provident Insurance Societies Act, 1912, and in force at the commencement of this Act shall so far as not inconsistent with the provisions of Part III continue in force and have effect as if duly made under this section until they are replaced by rules made under this section.

Alteration of forms. 86. The Governor-General-in-Council may, on the application or with the consent of an insurer, alter the regulations, requirements or forms contained in the Schedules as respects that insurer, for the purpose of adapting them to the circumstances of that insurer.

Delegation of powers. 87. The Superintendent of Insurance may delegate all or any of his powers and functions under Part III to the officer appointed by the local Government to exercise in the province the powers and functions of the Superintendent of Insurance in relation to provident societies.

Exemption from provisions of the Act. 88. The Governor-General-in-Council may by notification in the Gazette of India and subject to such conditions and restrictions as he thinks fit exempt any insurer or any provident society or class of provident societies from all or any of the provisions of this Act.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

Clause 86:

*Delete the entire Clause 86.*

The Committee have come to the conclusion that the Governor-General-in-Council should not be vested with the power of dispensing with the requirements of the forms as respects a particular insurer. If in case of any one company, any form is allowed to be different than that of other companies, the public will not be able to make comparisons between various companies working in India. If a non-Indian company is allowed to change any form or alter the method of filling in any return, it will be enjoying certain privilege not enjoyed by an Indian company and it might escape certain publicity. This section should therefore be deleted.

Clause 88:

*Delete the entire Clause 88.*

The Committee feel that the Governor-General-in-Council should not have the discretion to exempt any Insurer or Provident Society from the operation of any of the provisions of the Act, as all Insurers and Provident Societies should be placed on the same footing. In any event no Insurer should be exempted from the operation of the following Clauses of the Bill:—

3, 4, 5, 11, 12, 13, 18, 19, 23, 33, 34 and 48.

In extreme cases a special Bill could be introduced in the Legislatures.





PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

**New Clause 88 (a):**

*Add the following new Clause 88 (a):—*

- (i) *"It shall not be lawful for any Insurer to carry on the business of Insurance on the basis of a Dividing Society business.*
- (ii) *"For the purpose of sub-Section (i) the Dividing Society means any Insurer who carried on the business on the dividing principle, namely, under which the benefit secured by any policy issued by it is not fixed, but depends either wholly or partly on the results of the division of any portion of the premium income or funds amongst policies which have become due for payment either equally or in proportion to the premiums received under each class in any specified period."*

Section 55 of the bill provides that no Provident Fund Society shall carry on any business upon a dividing principle. There is no provision similar to that prohibiting the carrying on of business on dividing principle by Insurance Companies. It is desirable that a similar provision should be made so far as Insurance Companies are concerned.

**New Clause 88 (b):**

*Add the following new Clause 88 (b):—*

*"Where any notice, advertisement or other official publication of an Insurer contains a statement of the amount of the authorised or subscribed capital of the Insurer, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up."*

The Committee observe that from the nature of the business of an Insurance Company, every insurer keeps a larger amount of authorised and/or subscribed capital but the paid up capital is comparatively small, the reason being that in case of extraordinary emergency, portion of this subscribed capital may be called up. In view of this, the Committee feel that it should be made obligatory for every Insurer to include in his publication not only the authorised or subscribed capital but also the paid up capital.

**New Clause 88 (c):**

*Add the following new Clause 88 (c):—*

- (i) *"No person shall place any insurance business with a company not registered under this Act or with any office or Agency of a Company registered under this Act but situated outside British India, unless a certificate is obtained from the Superintendent of Insurance authorising him to place such insurance on the ground that such insurance cannot be effected in British India with any Company registered under this Act."*
- (ii) *"Any person making a default in complying with the provisions of this Section, shall be punishable with a fine which shall not be less than twenty-five per cent. of the premium paid in respect of such Insurance nor more than the total amount of such premium."*

With a view to protect Indian policy-holders the Government have been taking the trouble of organising supervision of Insurers doing business in India. This may be frustrated if people of India are tempted to place their insurances outside India in Companies which are not subject to supervision by the Government of India. Such temptations might come in the way of Indians by way of advertisements or circulars from outside India by which cheap rates and large rebates are offered for insurances if placed directly outside India. Our Committee have therefore framed the new Clause 88 (c) and trust that the Government would incorporate same in the final Act.

Amendment  
of Section  
130,  
Act IV  
of 1882.

**89.** To the **Explanation** to section 130 of the Transfer of Property Act, 1882, the following words and figures shall be added, namely:—

“or affects the provisions of section 31 of the Insurance Act, 1937.”

Amendment  
of Schedule I,  
Act IX of  
1908.

**90.** In the First Schedule to the Indian Limitation Act, 1908, for the entry in the third column relating to article 86 the following entry shall be substituted, namely:—

“The date of the death of the deceased . . . .”

Repeals.  
V of 1912.  
VI of 1912.  
XX of 1928.

**91.** The Provident Insurance Societies Act, 1912, the Indian Life Assurance Companies Act, 1912, and the Indian Insurance Companies Act, 1928, are hereby repealed.

PROPOSED AMENDMENTS AND ADDITIONS TO THE  
GOVERNMENT BILL.

**New Clause 88 (d):**

*Add the following new Clause 88 (d):—*

*"Notwithstanding anything in any law for the time being in force, the Governor-General-in-Council or the Governor of a Province may by a notification in the Gazette direct that every class of insurance business other than life directly or indirectly controlled by Government of India, Federal Government or any Provincial Government or Federal Railway authority or by any public or semi public bodies such as Municipalities, Local Boards, Port Trusts, Improvement Trust established or chartered under any Imperial, Federal or Local Act shall be placed with Indian Companies holding a Certificate of Registration under this Act, unless a certificate is obtained from the Superintendent of Insurance that such Insurance cannot be effected with an Indian Company holding a Certificate of Registration under this Act."*

**New Clause 88 (e):**

*Add the following new Clause 88 (e):—*

*"Notwithstanding anything in any law for the time being in force, no person, firm or company whether incorporated in British India or a foreign company engaged in any trade or industry shall be eligible for the benefit of any grant, bounty or subsidy payable out of the revenues of Government of India, Federation or of a Province for the encouragement of the same trade or industry or shall not be entitled to protection in any shape or form unless as a condition of such grant, bounty, subsidy or protection, such person, firm or company agrees to place every class of insurance business other than life under his or their control with Indian Companies holding a Certificate of Registration under this Act unless a certificate is obtained from the Superintendent of Insurance that such insurance cannot be effected with an Indian Company holding a Certificate of Registration under this Act."*

REMARKS AND REASONS FOR THE PROPOSED  
ADDITIONS, AMENDMENTS AND ALTERATIONS.

New Clauses 88 (d) and 88 (e) have been added with a view to give tangible help and protection to Indian Companies. The hardships under which Indian Companies have to work in their own country have been already mentioned in the remarks under Sections 3 (7) and 3 (9) newly added by our Committee. It is a principle recognised by the Government of India that Indian enterprise should be encouraged wherever possible. This is an extension of the same principle. It is only justly fair that wherever insurance premia are paid by a public body from the Indian tax payers money, such premia should be paid to Indian Insurance Companies. Approved lists of insurance companies are maintained by several Municipal, Port Trust, and Improvement Trust, authorities. Such lists should contain only genuine Indian companies. The official assignees and public trustees under the High Courts should also have definite instructions to place the insurances under their control with Indian companies only. If any officials are given advances for the purchase of motor cars, one of the conditions of such an advance must be that the Motor car should be insured with an approved Indian company.

Regarding industries that receive direct bounties or protection by tariff duties, it is but fair that they should be obliged to place their insurances with Indian companies. The following pertinent paragraph occurs on page 192 para 204, Chapter X of the Report of the Indian Tariff Board (1932):—

*"It has been brought to our notice that Indian Insurance Companies do not at present receive enough encouragement from the Mill industry. . . . We desire to impress on Indian Millowners the importance in the public interest of supporting the development of this business."*

Besides the Mill industry there are other industries too which receive protection. They should be placed under legislative obligation to deal with Indian Insurance companies only.

## SCHEDULES AND FORMS.

The six Schedules given in the draft bill are the Schedules II to VII of the Clauson Bill with slight modifications. Our Committee are of the opinion that the existing Schedules applicable to insurance companies in India have worked satisfactorily and they ought to have been continued with slight modifications. The Schedules of the Clauson Bill are not given a practical trial even in England and the difficulties to be created by them could not have been known to anybody. It is therefore, unfair to Indian Companies that these Schedules should be forced on them, while the existing Schedules have stood the test of experience. Our Committee have already forwarded to the Government of India with their letter dated 12th December 1936 the Schedules that would be suggested by them. They are practically the Schedules attached to their own draft Bill. If, however, the Schedules of the Clauson Bill are to be preferred our Committee suggest the amendments mentioned hereafter. .

SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

THE FIRST SCHEDULE.

(See Section 9).

*Regulations and Form for the preparation of Balance Sheet.*

PART I.

*Regulations.*

1. The balance-sheet required to be prepared in respect of every class of business carried on by an insurer is, in the form in which it is set out in Part II of this Schedule (Form A), appropriate to a case where the insurer maintains a separate fund in respect of life insurance business.

2. The balance-sheet of any class of business may be prepared as a separate document instead of being incorporated by the addition of columns and headings in the general balance-sheet, but the totals of each such separate balance-sheet (showing the total assets of the class of business, the balance at the credit of the life insurance fund or other separate fund or account, the amount of shareholders' undivided profits, and outstanding liabilities) must in any case be incorporated in the general balance-sheet.

3. If any combined balance-sheet is for any purpose issued by an insurer, it shall be in accordance with the Form set out in this Schedule, and there shall not be included among the assets shown in any such combined balance-sheet any amount in respect of any holding in or advance to any insurer whose assets and liabilities have been incorporated therein. Every combined balance-sheet must show clearly on the face thereof that it is a combined balance-sheet and must set out fully the name of every insurer whose assets and liabilities have been incorporated therein; if the assets and liabilities of any person not being an insurer are included in a combined balance-sheet the fact must be stated thereon.

4. Where any guarantee has been given by an insurer (otherwise than in the ordinary course of re-insurance business) in respect of the policies of any other insurer, the balance-sheet of the insurer by whom the guarantee was given must show clearly the name of every insurer whose policies have been so guaranteed and the extent of the guarantee:

Provided that this regulation shall not apply where a combined balance-sheet is issued incorporating the assets and liabilities of the insurer whose policies are guaranteed.

5. Where any part of the assets of an insurer is deposited in any place outside British India as security for the owners of policies issued in that place, the balance-sheet shall state that part of the assets has been so deposited, and, if any such part forms part of the life insurance fund, shall show the amount thereof and the place where it is deposited. Where any combined balance-sheet is issued by an insurer for any purpose, the information required by this regulation shall be shown in the aggregate in respect of all the insurers whose assets and liabilities have been incorporated in the balance-sheet.

6. If the value as shown in the balance-sheet of the Investment in Stocks and Shares is in the aggregate greater than the market value thereof (after deduction of accrued interest included in market prices in those cases where accrued interest is included elsewhere in the balance-sheet), then such market value must be shown against the value shown by the balance-sheet, so stated as to make it appear what part thereof has been ascertained from published market quotations.

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**65**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## 7. Every balance-sheet shall contain the following certificates, namely:—

(a) a certificate signed by the same persons as are required by this Act to sign the balance-sheet explaining how the values as shown in the balance-sheet of the Investments in Stocks and Shares have been arrived at, and how the market value thereof has been ascertained for the purpose of comparison with the values so shown:

(b) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and signed also, so far as respects the value of any items shown in the balance-sheet under the heading of "Reversions and Life Interests", by an actuary, certifying that the values of all the assets have been reviewed as at the date of the balance-sheet, and that in their belief the assets set forth in the balance-sheet are shown in the aggregate at amounts not exceeding their realisable or market value under the several headings—"Loans", "Reversions and Life Interests", "Investments", "Agents Balances and Outstanding Premiums", "Interest Dividends and Rents outstanding", "Interest Dividend and Rents accruing but not due", "Amounts due from Other Persons or Bodies carrying on Insurance Business", "Sundry Debtors", "Bills Receivable", "Cash" and the several items specified under "Other Accounts":

Provided that if the persons signing the certificate are unable to certify that the assets set forth in the balance-sheet are so shown as aforesaid, a full explanation of the bases upon which the values shown in the balance-sheet have been assessed shall be given in the certificate;

(c) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and by the auditor certifying that no parts of the assets of the life insurance fund has been directly or indirectly applied in contravention of the provisions of this Act relating to the application and investment of life insurance funds; and

(d) certificates signed by the auditor (which shall be in addition to any other certificate or report which he is required by law to give with respect to the balance-sheet) certifying—

(i) that he has verified the cash balances and the securities relating to the insurer's loans, reversions and life interests, and investments;

(ii) to what extent, if any, he has verified the investments and transactions relating to any trusts undertaken by the insurer as trustee; and



## PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Regulation 7 A.**

*Delete the words "how the values as shown in the balance sheet" in lines 2 and 3 and substitute thereof the words "how the aggregate values as shown in the balance sheet."*

*Delete the words "how the market value thereof" in line 4 and substitute thereof the words "how the aggregate market value thereof".*

**REMARKS.**

Companies doing considerable business have a large number of investments. If the regulation requires explanations regarding each and every investment as to how the values have been arrived at, it would be very cumbersome for, and unfair to, the persons signing the Balance Sheet. Our Committee therefore have suggested that the explanation should state how the values of the investments in the aggregate have been arrived at. Possibly the meaning of the regulation 7 (a) is what our Committee suggest. If so it should be made clear by inserting the words suggested by us.

**Regulation 7 E.**

*In line 8 put a full stop after the words "market value" and delete the words "under the several headings . . . . . other accounts" occurring in lines 8, 9, 10, 11, 12, 13, 14 and 15.*

**REMARKS.**

It is redundant to mention all the headings numbering about a dozen such as "loans" "Reversions and Life Interests" "Agents' Balances and Outstanding Premiums" etc., when the certificate mentions "values of all the assets have been reviewed . . . ."

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

- (iii) in the case of a combined balance-sheet that he has audited the balance-sheet and accounts of every insurer whose assets and liabilities are incorporated therein, or that any such balance-sheet and accounts which have not been audited by him have been certified by independent auditors. The said certificate shall contain a reference to such reservations, if any, as may have been made by any auditor upon any report or certificate given by him with respect to the balance-sheet and accounts of any insurer whose assets and liabilities are incorporated in the combined balance-sheet.

8. If the values shown in the balance-sheet in respect of "Holdings in Controlled Companies" or "House Property (a) in India (b) out of India" have been increased since the last previous balance-sheet, the certificate required by paragraph (b) of the last foregoing regulation shall state the amount of every increase not solely due to the cost of subsequent additions or, as respects holdings in controlled companies, to increased profits, and shall contain an explanation of the reason therefor.

9. For the purposes of this Schedule in the following expressions have the meanings hereby respectively assigned to them, namely:—

- (a) "combined balance-sheet" includes any combined statement made by an insurer of assets and liabilities in the form of a balance-sheet which includes the assets and liabilities of any other insurer;
- (b) "controlled company" means any company over the policy or management of which the insurer has power directly or indirectly to exercise decisive influence; and
- (c) "market value" means as respects any asset the market value thereof as ascertained from published market quotations, or, if there be no such value, its fair value as between a willing buyer and a willing seller.

PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Regulation 8.**

*In line 3 the word "India" should mean geographical India, i. e., India as defined by Section 311 of the Government of India Act 1936.*

**Regulation 9 (b).**

*Delete the word "or" in line one and substitute thereof the word "and".*

PART II.

FORM.

FORM A.

Form of Balance Sheet.

Balance Sheet of 19 .

	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.		Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.		Rs. n. p.	Rs. a. p.	Rs. a. p.
Shareholders' Capital (each class to be stated separately)				Loans:			
Authorized:				On Mortgages of property within British India			
.....Shares of Rs.....each Rs.				On Mortgages of property outside British India			
Subscribed:				On Security of municipal and other public rates			
.....Shares of Rs.....each Rs.				On Stocks and Shares			
Called up:				On Insurer's policies within their surrender value			
Less Unpaid calls. Rs.				On Policies of other insurers within their surrender value			
.....Shares of Rs.....each Rs.				On Personal security			
Reserve or Contingency Accounts (a):				To Controlled Companies (other than Reversionary) (f)			
Investment Reserve Account				Reversions and Life Interests:			
Profit and Loss Appropriation Account				Reversions and Life Interests purchased			
Balance				Loans on Reversions and Life Interests			
Balances of Funds and Accounts:				Debentures and Debenture Stocks of Controlled Reversionary Companies (f)			
Life Insurance Fund				Ordinary Stocks and Shares of Controlled Reversionary Companies (f)			
Fire Insurance Business Account				Loans to Controlled Reversionary Companies (f)			
Marine Insurance Business Account				Investments:			
Accident and Miscellaneous Insurance Business Account				Deposit with the Reserve Bank of India (Securities to be specified)			
Other accounts (if any) to be specified							
Pension or Superannuation Accounts (b)							
Carried over				Carried over			

SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Left hand side Column No. 1. Heading.**  
*Add after the words "Life and annuity business" the words "And Leasehold Redemption."*

	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.		Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.		Rs. a. p.	Rs. a. p.	Rs. a. p.
Brought Forward . . . . .				Brought Forward . . . . .			
Debenture Stock per cent. . . . .				Investments— <i>contd.</i>			
Loans and Advances (c) . . . . .				Indian Government Securities . . . . .			
Bills Payable (c) . . . . .				British and Colonial Government Securities . . . . .			
Estimated Liability in respect of outstanding claims, whether due or intimated (d) . . . . .				Foreign Government Securities . . . . .			
Annuities due and unpaid (d) . . . . .				Indian Municipal and Provincial Securities . . . . .			
Outstanding Dividends . . . . .				British and Colonial Securities . . . . .			
Amounts due to Other Persons or Bodies carrying on Insurance Business (e) . . . . .				Foreign Securities . . . . .			
Sundry creditors (including outstanding and accruing expenses and taxes) (e) . . . . .				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the Indian Government . . . . .			
Other sums owing by the insurer (particulars to be given) (e) . . . . .				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the British or any Colonial Government . . . . .			
Contingent Liabilities to be specified (e) . . . . .				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by any Foreign Government . . . . .			
Rs. _____				Debentures of any railway in India . . . . .			
				Debentures of any railway out of India . . . . .			
				Preference or guaranteed Shares of any railway in India . . . . .			
				Preference or guaranteed Shares of any railway out of India . . . . .			
				Railway Ordinary Stocks (a) in India (b) out of India . . . . .			
				Other Debentures and Debenture Stock (a) in India (b) out of India . . . . .			
				Other guaranteed and Preference Stocks and Shares (a) in India (b) out of India . . . . .			
				Other Ordinary Stocks and Shares (a) in India (b) out of India . . . . .			
				Holdings in Controlled Companies (f) . . . . .			
				House property (a) in India (b) out of India . . . . .			

SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.		Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
				Freehold and Leasehold ground rents and rent charges . . . . .			
				Agent's Balances and Outstanding Premiums (g) . . . . .			
				Interest Dividends and Rents outstanding (d) . . . . .			
				Interest, Dividends and Rents accruing but not due (d) . . . . .			
				Amounts due from Other Persons or Bodies carrying on Insurance Business (h) . . . . .			
				Sundry Debtors (i) . . . . .			
				Bills Receivable . . . . .			
				Cash:			
				At Bankers on Deposit Account . . . . .			
				At Bankers on Current Account and in hand . . . . .			
				At Call and Short Notice (j) . . . . .			
				Other Accounts to be specified (k) . . . . .			

\*Assets and Liabilities, Shareholders' Capital and Reserves, not allocated to any class of business specified in column (1) must be shown in column (2).

*Notes.*

- (a) The Reserves or Contingency Accounts must be separately stated.
- (b) If the insurer has not full and unrestricted control of the assets constituting the Pension or Superannuation Accounts, either these Accounts and the assets and liabilities relating thereto must be omitted from the balance-sheet or the assets of which the insurer has not such control must be clearly indicated on the face of the balance-sheet.
- (c) If the insurer has deposited security as cover in respect of any of these items, the amount and nature of the securities so deposited must be clearly indicated on the face of the balance-sheet.
- (d) These items are or have been included in the corresponding items in the Revenue or Profit and Loss Account. Outstanding and accruing interest, dividends and rents must be shown after deduction of income-tax or the income-tax must be provided for amongst the liabilities on the other side of the balance-sheet.
- (e) Such items as amount of liability in respect of bills discounted, uncalled capital of controlled Companies' uncalled capital of other investments, etc., must either be shown in their several categories under the heading "Contingent Liabilities" or the appropriate items on the assets side must be set out in such detail as will clearly indicate the amount of the uncalled capital.
- (f) As respects life and annuity business full particulars of holdings in and loans to controlled companies must be stated, giving the name of each company, the number and description of each class of shares held, the amounts paid up thereon, and the value at which the holdings in each company stand in the balance-sheet.
- (g) Either this item must be shown net or the commission must be provided for amongst the liabilities on the other side of the balance-sheet.
- (h) Loans or advances to or balances due from controlled companies must not be shown under this heading, but under the separate appropriate headings provided, unless they are of a temporary character in respect of current transactions which are cleared within three months of the date of the balance-sheet.
- (i) Amounts due from directors and officials must be shown separately.
- (j) No amounts must be entered under this heading unless fully secured. If not fully secured the amounts must be included under the heading "Sundry Debtors".
- (k) Under this heading must be included such items as the following, which must be shown under separate headings suitably described: office furniture, goodwill, preliminary, formation and organisation expenses, development expenditure account, discount on debentures issued, other expenditure carried forward to be written off in future years, balance being loss on Profit and Loss Appropriation Accounts, etc. The amounts included in the balance-sheet must not be in excess of cost.



**Note (e):**

*Add at the end:—"This however does not include any liabilities regarding Policy contracts".*

**Note (g):**

*Delete note (g) and substitute the following note:—"Agents' balances and outstanding premiums must be shown gross on the asset side and commissions outstanding must be provided for amongst the liabilities on the other side of the balance sheet."*

**Note (i):**

*Add after the word "separately" the words "except premiums due from the Directors and Officers".*

**REMARKS.**

**Our amendment to note (g) is suggested with a view to facilitate comparison of Balance Sheets of different companies.**

**The amendment to note (i) would exclude premiums due from Directors and Officers. It is but fair that such should be the case as premiums are not like other loans by or debts of Directors and Officers.**

**New Foot Note (L):**

*Add the following foot note (L) to the Balance Sheet:—*

*"If there are no assets or liabilities under any heading given above, that heading should be omitted."*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## THE SECOND SCHEDULE.

( See Section 9. )

*Regulations and Forms for preparation of Profit and Loss Accounts.*

## PART I.

*Regulations.*

1. The items on the income side of the Profit and Loss Account and Profit and Loss Appropriation Account must relate to income, whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

2. Deductions from Interest, Dividends and Rents to be shown in respect of income-tax must include all amounts in respect of British Indian income-tax whether or not it has been or is to be deducted at source or paid direct.

3. The Interest, Dividends and Rents, less income-tax thereon shown in the Revenue Accounts for any classes of business other than life insurance business, including annuity business may, if the insurer so desires, be included with the corresponding items in the Profit and Loss Account.

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**71**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

**PART II.**  
**FORMS.**  
**FORM B.**

*Form of Profit and Loss Account.*

Profit and Loss Account of \_\_\_\_\_ for the year ended 19 .

	Rs. a. p.		Rs. a. p.
British Indian Taxes on the Insurer's Profits (not applicable to any particular Fund or Account)		Interest, Dividends and Rents (not applicable to any particular Fund or Account) . . . . .	
		. . . . . Ra.	
		Less—Income-tax thereon . . . . .	
		. . . . . Ra.	
Expenses of Management (not applicable to any particular Fund or Account)* . . . . .		Profit on realisation of Investments (not credited to Reserves or any particular Fund or Account) . . . . .	
Loss on Realisation of Investments (not charged to Reserves or any particular Fund or Account) . . . . .		Appreciation of Investments (not credited to Reserves or any particular Fund or Account). . . . .	
Depreciation of Investments (not charged to Reserves or any particular Fund or Account) . . . . .		Profit transferred from Revenue Accounts (details to be given) . . . . .	
Loss transferred from Revenue Accounts (details to be given) . . . . .		Transfer Fees . . . . .	
Other Expenditure (to be specified). . . . .		Other Income (to be specified) . . . . .	
Balance for the year carried to Appropriation Account . . . . .		Balance being loss for the year carried to Appropriation Account . . . . .	

\*If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount must be shown separately.

PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Form of Profit and Loss Account.**

*Add the following foot notes to Form B:—*

- (1) *If there are no items pertaining to any of the items described above, that item should be omitted.*
- (2) *It is understood that transactions are to be shown in the net aggregate.*
- (3) *If investments are shown in the Balance Sheet at cost or book value which in the aggregate are lower than market value, then no appreciation need be shown under item No. 3 on the credit side in the above form.*
- (4) *Loss or profit on sale of Securities need not be compulsorily charged to Profit and Loss Account (after making allowance for reserves and investments) as long as the investments are in the aggregate within the market value at the date of the Balance Sheet.*
- (5) *It should be left at the option of the Insurer to Combine Form B (Form of Profit and Loss Account) and Form C (Form of Profit and Loss Appropriation Account).*

**Credit Side of Profit & Loss Account.**

*Add before the word "Profit" in line 7 the words "net aggregate".*

*Add before the word "Appreciation" in line 12 the words "Net aggregate".*

**Debit Side of Profit & Loss Account.**

*Add before the word "loss" in line 7 the words "net aggregate".*

*Add before the word "Depreciation" in line 10 the words "Net aggregate".*

*Credit side item No. 2. Profit on Realisation of Investments (not credited to reserves or any particular Fund or Account)\**

*Add after the word "profit" in line one the words "if any".*

**Add the following explanation at the end of the form:—**

*\*Evidently the word "account" in the bracket indicates that this shall not prevent the company from utilising profit on realization for the purpose of writing down the cost of investments.*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## FORM C.

*Form of Profit and Loss Appropriation Account.*

Profit and Loss Appropriation Account of \_\_\_\_\_ for the year ended 19\_\_

	Rs. a. p.		Rs. a. p.
Balance being loss brought forward from last year . . . .		Balance brought forward from last year . . . .	Ra.
Balance being loss for the year brought from Profit and Loss Account (as in Form B) . . . .		Less—Dividends since paid in respect of last year (to be specified and if "free of tax" to be stated)* . . . .	Ra.
Dividends paid during the year on account of the current year (to be specified and if "free of tax" to be so stated) . . . .			
Transfers to any particular Funds or Accounts (details to be given).		Balance for the year brought from Profit and Loss Account (as in Form B).	
Balance at the end of the year as shown in the Balance-Sheet. . . .		Balance being loss at end of the year as shown in the Balance Sheet . . . .	

\*Note.—This item may be shown on the other side of the account if preferred.

PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## THE THIRD SCHEDULE.

(See section 9.)

*Regulations and Forms for the preparation of Revenue Accounts.*

## PART I.

*Regulations.*

1. Form D is, as set out in Part II of this Schedule, appropriate for life insurance business, but a separate revenue account must be prepared for every class of business in respect of which the insurer is required to maintain a separate account.

2. Form F is, as set out in Part II of this Schedule, appropriate for fire insurance business. A separate revenue account in the same form must be prepared for accident and miscellaneous insurance including workmen's compensation and motor car insurance. Form E is, as set out in Part II of this Schedule, appropriate for marine insurance business.

3. If any combined revenue account is for any purpose issued by an insurer it must be in accordance with the forms specified in this Schedule and must clearly show on the face thereof that it is a combined revenue account, and must set out fully the name of every insurer required to make separate returns under this Act whose revenue and expenditure have been included therein; if the revenue and expenditure of any person not being an insurer are included in a combined revenue account, the fact must be stated thereon.

4. The items on the income side of the revenue account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

5. Re-insurance premiums whether on business ceded or accepted, are to be brought into account gross (i.e., before deducting commissions) under the head of premiums.

6. As respects life insurance business, statements of new insurances in respect of which a premium has been paid during the year of account, must be appended to every revenue account relating to that class of business showing separately as respects business within and business outside British India the number of policies, the total sums assured, the amount received by way of single premiums (including all premiums paid at the outset where no subsequent premium is payable) and the amount of the yearly renewal premium income; the items to be net amounts after deduction of the re-insurances of the insurer's risks.

Policies of insurance upon the lives of a group of persons whereby sums assured are payable in respect of several persons included in the group must be excluded from any such statement as respects the classes of business aforesaid and must be shown in a separate statement giving the like particulars.



## PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Regulation 2.**

*Delete the words "accident and" in line 3 and add in line four after the word "compensation" the word "accident".*

**REMARKS.**

**It should be made clear that the business of accident should be merged in miscellaneous business account and no separate revenue account should be prepared for it.**

**New Regulation 6 A:**

*Add the following new para as 6 A:—*

*"For the purposes of returns under Section 9 only the following information in addition to the published revenue account be supplied:—*

*"Gross premium written in India for life, fire, marine and accident insurance business".*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

7. Any office premises which form part of the assets of a life insurance fund must be treated as an interest-earning investment, and accordingly in the Revenue Account for life insurance business a fair rent for the premises must be included under the heading "Interest, Dividends and Rents" and in the Revenue Account for every class of business for which the premises are used proper charges for the use thereof must be included under the heading "Expenses of Management":

Provided that this regulation shall not apply where the insurer carries on insurance business of one class only or carries on only life insurance business

8. The expenses of management charged to the life insurance Revenue Account must not exceed the amount of such expenses properly referable to that class of business and, in particular, no such account must be charged with more than a fair sum for the use of any office premises having regard to the extent to which they are used for the purposes of that class of business.

9. Deductions from Interest, Dividends and Rents in respect of income-tax must include all income-tax whether or not it has been or is to be deducted at source or paid direct; the income-tax to be shown as so deducted in the life insurance Revenue Account is British Indian, United Kingdom, Foreign and Dominion income-tax, but the income-tax to be shown as deducted in Revenue Accounts or any other classes of business is British Indian income-tax only.

## PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Regulation 7.**

*Delete the following words occurring in lines 8 and 9:—*

*"Provided that this regulation shall not apply where the insurer carries on insurance business of one class only or carries on only life insurance business".*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## PART II.

## FORMS.

## FORM D.

Form of Revenue Account applicable to Life Insurance business.

Revenue Account of \_\_\_\_\_ for the year ended 19 \_\_\_\_  
in respect of \_\_\_\_\_ Business.

	Business				Business		
	within British India.	out of British India. (a)	Total.		within British India.	out of British India. (a)	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
*Claims under Policies (including provision for claims due or estimated) less Re-insurances				Balance of Fund at the beginning of the year			
By death				*Premiums, less Re-insurances			
By maturity				*Consideration for Annuities Granted, less Re-insurances (c)			
*Annuities, less Re-insurances							
*Surrenders (including Surrenders of Bonus), less Re-insurances				Interest, Dividends and Rents	Rs.		
*Bonuses in cash, less Re-insurances				Less—Income-tax thereon (d)	Rs.		
*Bonuses in Reduction of Premiums, less Re-insurances				Registration Fees			
*Commission (less that on Re-insurances)				Other Income (to be specified)			
Expenses of Management (b)				Loss transferred to Profit and Loss Account			
Bad Debts				Transferred from Appropriation Account			
United Kingdom, Foreign and Dominion Taxes							
Other Expenditure (to be specified)							
Profit transferred to Profit and Loss Account							
Balance of Fund at the end of the year as shown in the Balance-Sheet							

## Notes.

(a) In the case of an insurer having his head office in British India, these columns apply only to business the premiums in respect of which are payable outside British India.

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) British Indian, United Kingdom, Foreign and Dominion income-tax on interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, Foreign and Dominion taxes, other than those shown under this item.

\*Where the account is furnished under the provisions of clause (b) of sub-section (2) of section 13 of the Insurance Act, 1937, by an insurer to whom that section applies, separate figures for business within British India and business out of British India must be given against the items marked with an asterisk. Against all other items the total amount for the business as a whole may be given.

PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Form of Revenue Account applicable to Life Insurance business.**

Delete the entire note (d).

Delete the words "British India" wherever they occur and substitute thereof the word "India".

Delete the words "as a whole may" in the last line and substitute instead the words "in India shall".

Add the following words after the words "whole may be given" occurring in line 4 of Asterisks:—

*"In the case of non-Indian companies their business in India only to be shown".*

**Form D. Right side.**

Delete the words "Registration Fees" occurring as an item in line 4 from the bottom.

Add after the word "on" occurring in line 12 the words "deducted at source".

**REMARKS.**

Instead of having two items as "Interest, Dividends and Rents" and "Less Income tax thereon", there should be only one item as follows:—

**"Interest, Dividends and Rents**

**Less income-tax thereon**

**deducted at source".**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## FORM E.

Form of Revenue Account applicable to Marine Insurance Business.

Revenue Account of \_\_\_\_\_ for the year ended \_\_\_\_\_ 19

in respect of Marine Insurance Business.

—	Cur-	Last	Pre-	Total.	—	Cur-	Last	Pre-	Total.
	rent	pre-	vious			rent	pre-	vious	
	year.	ceding	years.			year.	ceding	years.	
	Rs.	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.	Rs.
*Claims paid (less Salvages and Re-insurances) (a) (c)					Balance of Marine Insurance Business Account at beginning of the year:				
*Commission					Balances				
*Expenses of Management (b)					Additional Reserve (if any)				
*Bad Debts					*Premiums (less Returns, Re-insurances, Brokerages and Discount) (c)				
United Kingdom, Foreign and Dominion Taxes.					Interest, Dividends and Rents	Rs.			
*Other Expenditure (to be specified)					Less—Income-tax thereon	Rs.			
Profit transferred to Profit and Loss Account					*Other income (to be specified)				
Balance of Marine Insurance Business Account at end of year as shown in the Balance-Sheet:					Loss transferred to Profit and Loss Account				
Balance					Transferred from Appropriation Account				
Additional Reserve (if any)									

## Notes.

(a) This heading must include all expenses directly incurred in settling claims.

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately.

(c) Where the account is furnished under the provisions of section 9 of the Insurance Act, 1937, separate figures for claims paid to claimants in British India and claimants outside British India, and for premiums derived from business effected in British India and effected outside British India must be given.

\*Where the account is furnished under the provisions of clause (b) of sub-section (2) of section 13 of the Insurance Act, 1937, by an insurer to whom that section applies, separate figures for business within British India and business out of British India must be given against the items marked with an asterisk. Against all other items the total amount for the business as a whole may be given.

## PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Form of Revenue Account applicable to Marine Insurance business.**

*Delete the entire Form E and substitute thereof the following Form adopted at present by Indian companies in India which is similar to the form of British companies in England.*

*Revenue Account applicable to Marine Insurance Business.*

Amount of funds at the beginning of the year		Claims less reassurances (accounts to be specified).	
Premiums (accounts to be specified). Ra.		Expenses of management:—	
Interests, dividends and rents.		Commission	
Less income tax thereon		Other expenses (to be specified).	
		Losses (accounts to be specified).	
Profits (accounts to be specified).		Other payments (accounts to be specified).	
Other receipts (to be specified).		Amount of funds at the end of the year as per Balance Sheet.	

Note:—The non-Indian companies should prepare their revenue account of Indian business.





## PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Form of Revenue Account applicable to Fire Insurance Business and to Accident and Miscellaneous Insurance Business including Workmen's Compensation and Motor Car Insurance Business.**

*The business of accident insurance should be merged in miscellaneous business.*

*Delete the words "Bad Debts" occurring in line 13 on left column.*

*Add after the word "thereon" in line 7 of right column the words "deducted at source".*

**REMARKS.**

**Instead of having two items, it is better to put both as one item.**

**Note (a):**

*Delete in note (a) the words "and in the case of Fire Insurance business must include contributions to Fire Brigade."*

**REMARKS.**

**Contributions to Fire Brigades should be included in expenses of management.**

**Note (d):**

*Delete the entire note (d).*

**New Note (e).**

*Add the following new note (e) to the Notes of Form F:—*

*"The non-Indian companies should prepare their revenue account of Indian business".*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## THE FOURTH SCHEDULE.

(See section 11.)

*Regulations for the preparation of Abstracts of Actuaries' Reports and Requirements applicable to such Abstracts.*

## PART I.

*Regulations.*

1. Abstracts and Statements must be so arranged that the numbers and letters of the paragraphs correspond with those of the paragraphs of Part II of this Schedule.

2. Where any table of mortality or sickness used in a valuation is not a published table, then, for the purpose of complying with paragraph 3 of Part II of this Schedule, specimen policy values must be given at the rate of interest employed in the valuation in respect of whole life insurance policies effected at the respective ages of 20, 30, 40 and 50, and having been in force respectively for five years, ten years and upwards at intervals of ten years; and similar specimen policy values must be given in respect of endowment insurance policies effected at the respective ages of 20, 30 and 40 for endowment terms of twenty and thirty years:

Provided that, where the specimen policy values required by this regulation to be given are the same as those given in any abstract prepared under Part II of this Schedule previously submitted by the insurer to the Superintendent of Insurance, it shall be sufficient in any abstract subsequently submitted to refer to the specimens so given in such manner as to enable the required information to be ascertained therefrom by the Superintendent of Insurance.

3. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirement of paragraph 4 of Part II of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

4. (1) The average rate of interest yielded in any year by the assets constituting a life insurance fund shall, for the purposes of paragraph 5 of Part II of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest credited to the life insurance fund during the year after deduction of income-tax (any refund of income-tax made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the life insurance fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deducting from the aggregate of those two sums an amount equal to one-half of the interest of the year.

(2) For the purposes of the calculation aforesaid either—

- (a) all profits and income arising during the year from sums invested in reversions shall be included in the interest credited to the life insurance fund during the year; or
- (b) such portion of the life insurance fund as is invested in the purchase of reversions, and the profits and income arising therefrom, shall be excluded from the calculation; but in that case a statement must be added to the information required under the said paragraph 5, showing in respect of the portion of the fund so excluded as aforesaid, the average rate of annual profit and income for which credit has been taken during the five years last preceding the valuation date, and explaining the manner in which the said average rate has been calculated.

PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Para 4 (1):**

*In line 6 after the words "income-tax" add the words "deducted at source"*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

(3) The information given in accordance with the requirements of the said paragraph 5, shall show clearly by which of the methods hereinbefore in this regulation mentioned the sums invested in reversions and the profits and income arising therefrom have been dealt with.

5. Every abstract prepared in accordance with the requirements of Part II of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuation made for the purposes thereof and of the valuation data:

Provided that in the case of an abstract prepared on behalf of an insurance company, if the actuary who signs the abstract is not a permanent officer of the company, the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of the company and the actuary shall insert on the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

6. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely:—

“extra premium” means a charge for any risk not provided for in the minimum contract premium;

“inter-valuation period” means, as respects any valuation, the period to the valuation date of that valuation from the valuation date of the last preceding valuation in connection with which an abstract was prepared under this Act or under the enactments repealed by this Act, or, in a case where no such valuation has been made in respect of the class of business in question, from the date on which the insurer began to carry on that class of business;

## PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Para 5 Proviso:**

*Delete the following words occurring in lines 4, 5 and 6:—*

*"and the Actuary shall insert on the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data"*

**New Regulations 5 A and 5 B:**

*Add the following new regulations 5A and 5B:—*

*5A: In the event of the Actuary finding that the financial condition of the insurer is such that, in his opinion, no payment should be made either of bonus to policyholders or of dividend to shareholders, he shall, along with the statement required by the Fourth Schedule to the Act, state whether or not he finds the insurer to be solvent. If he finds it to be insolvent:—*

- (a) he shall state whether he considers that the insurer could be made solvent as regards existing contracts by the transfer of its paid up capital to make good the deficiency in the Life Assurance Fund. If so, he shall state what in his opinion is the amount so required, and whether or not any alteration should be made in the rates of premium for future entrants.*
- (b) if he considers that the insurer cannot be made solvent as regards existing contracts by the transfer of the whole of the paid up capital to the credit of the life assurance fund, he shall state what proportion of the sum assured the insurer would, in his opinion, be able to meet under such contracts if all paid up capital were transferred to such fund and (i) if all the premium thereunder were reduced proportionately with the sum assured and (ii) if the premiums were not reduced."*

**REMARKS.**

**This reproduces Rule No. 7 framed by the Government of India under Sections 27 and 39 of the Indian Life Assurance Companies Act 1912.**

**Add the following as a new regulation:**

*"Before arriving at the surplus, the Actuary shall deduct all amounts shown in the Balance Sheet as Organisation Expenses or as Deferred Redemption Expenses."*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

- "maturity date" means the fixed date on which any benefit will become payable either absolutely or contingently;
- "net premiums" means as respects any valuation the premiums taken credit for in the valuation;
- "premium term" means the period during which premiums are payable;
- "valuation date" means as respects any valuation the date as at which the valuation is made.

## PART II.

*Requirements applicable to an Abstract in respect of Life Insurance Business.*

The following tabular statements shall be annexed to every abstract prepared in accordance with the requirements of this Part of this Schedule namely:—

- (a) a Consolidated Revenue Account, in the Form G annexed to this Part of this Schedule, for the inter-valuation period (except that it shall not be necessary to prepare such an account in respect of any class of business so long as the insurer deposits annually with the Superintendent of Insurance an abstract in respect of that class of business); and
- (b) a Summary and valuation in the Form H annexed to this Part of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates; and
- (c) a Valuation Balance-Sheet in the Form I annexed to this Part of this Schedule;

and every such abstract shall show:—

## 1. The valuation date.

2. The general principles and full details of the methods adopted in the valuation of each of the various classes of insurances and annuities shown in the said Form H, including statements on the following points:—

- (a) whether the principles were determined by the instruments constituting the company or by its regulations or byelaws or how otherwise;
- (b) the method by which the net premiums have been arrived at and how the ages at entry, premium terms and maturity dates have been treated for the purpose of the valuation;
- (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation;
- (d) the rate of bonus taken into account where by the method of valuation definite provision is made for the maintenance of a specific rate of bonus;
- (e) the method of allowing for—
  - (i) the incidence of the premium income; and
  - (ii) premiums payable otherwise than annually;
- (f) the methods by which provision has been made for the following matters, namely:—
  - (i) the immediate payment of claims;
  - (ii) future expenses and profits in the case of limited payment and paid-up policies;

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**81**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

(iii) the reserve in respect of lapsed policies, not included in the valuation, but under which a liability exists or may arise; and whether any reserves have been made for the matters aforesaid;

- (g) whether under the valuation method adopted any policy would be treated as an asset, and if so what steps, if any, have been taken to eliminate such asset;
- (h) a statement of the manner in which policies on under-average lives and policies subject to premiums which include a charge for climatic, military or other extra risks have been dealt with; and
- (i) the rates of exchange at which liabilities in respect of policies issued in foreign currencies have been converted into rupees and what provision has been made for possible increase of liability arising from future variations in the rates of exchange.

3. The table of mortality used, and the rate of interest assumed, in the valuation.

4. The proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, separately specified in respect of insurances with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits.

5. The average rates of interest yielded by the assets, whether invested or uninvested, constituting the life insurance fund for each of the five years preceding the valuation date.

6. The basis adopted in the distribution of profits as between the insurer and policy owners, and whether such basis was determined by the instruments constituting the company, or by its regulations or byelaws, or how otherwise.

7. The general principles adopted in the distribution of profits among policy owners, including statements on the following points, namely:—

- (a) whether the principles were determined by the instruments constituting the company, or by its regulations or byelaws, or how otherwise;
- (b) the number of years' premiums to be paid, period to elapse and other conditions to be fulfilled before a bonus is allotted;
- (c) whether the bonus is allotted in respect of each years' premium paid, or in respect of each completed calendar year or year of assurance or how otherwise; and
- (d) whether the bonus vests immediately on allocation, or, if not, the conditions of vesting.

8. (1) The total amount of profits arising during the inter-valuation period, including profits paid away and sums transferred to reserve funds or other accounts during that period, and the amounts brought forward from the preceding valuation (to be stated separately) and the allocation of such profits—

- (a) to interim bonus paid;
- (b) among policy owners with immediate participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
- (c) among policy owners with deferred participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
- (d) among policy owners in the discounted bonus class, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);



## PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS

**Para 2 (f) (iii):**

*Add after the word "Policies" in line one the following:—"which have remained lapsed for a period not exceeding three years."*

*In line two after the words "or may arise" add the following: "under the rules of the Company".*

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

- (e) to the insurer, or in the case of an insurance company, among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated);
- (f) to every reserve fund or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated);
- (g) as carried forward unappropriated.

(2) Specimens of bonuses allotted as at the valuation date to policies for one thousand rupees—

- (a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years, and upwards at intervals of ten years; and
- (b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years;

together with the amounts apportioned under the various manners in which the bonus is receivable.

9. A statement of the value, if any, allowed for the surrender of policies for one thousand rupees—

- (a) for the whole term of life effected at the respective ages of 20, 30 and 40 and having been respectively in force for five years, ten years and upwards at intervals of ten years; and
- (b) for endowment insurances effected at the respective ages of 20, 30 and 40 for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years.

10. A statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident used for the purpose.

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**83**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## FORM G.

Consolidated Revenue Account of \_\_\_\_\_ for \_\_\_\_\_ years commencing  
and ending \_\_\_\_\_

	Rs.		Rs.
Claims under Policies (including provision for claims due or intimated) less Re-insurances—		Balance of Life Insurance Fund at the beginning of the period . . .	
By death . . . . .		Premiums, less Re-insurances . . . . .	
By maturity . . . . .		Consideration for Annuities Granted, less Re-insurances (b) . . . . .	
Annuities, less Re-insurances . . . . .		Interest, Dividends and Rents . . . . .Rs.	
Surrenders (including Surrenders of Bonuses) less Re-insurances . . . . .		Less—Income-tax thereon (c) . . . . .Rs.	
Bonuses in Cash, less Re-insurances . . . . .			
Bonuses in Reduction of Premiums, less Re-insurances . . . . .		Registration Fees . . . . .	
Commission (less that on Re-insurances) . . . . .		Other Income (to be specified) . . . . .	
Expenses of Management (a) . . . . .		Loss transferred to Profit and Loss Account . . . . .	
United Kingdom, Foreign and Dominion Taxes . . . . .		Transferred from Appropriation Account . . . . .	
Bad Debts . . . . .			
Other Expenditure (to be specified) . . . . .			
Profit transferred to Profit and Loss Account . . . . .			
Balance of Life Insurance Fund at end of the period as shown in the Balance-Sheet.			
Rs.			Rs.

## Notes

(a) If any sum has been deducted from this item and entered on the assets side of the balance-sheet the amount so deducted must be shown separately.

(b) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(c) British Indian, United Kingdom, Foreign and Dominion income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, Foreign and Dominion taxes, other than those shown under this item.

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**84**

FORM H.

Summary and Valuation of the Policies of as at 19

Description of Transactions.	Particulars of the Policies for Valuation.					Valuation.			
	Number of policies.	Sums Assured.	Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Sums Assured and Bonuses.	Office Yearly Premiums.	Net p. Yearly remittances.	Net Liabilities.
<b>DIVISION I</b>									
<i>Insurances.</i>									
<b>Group A.—</b>									
With immediate participation in profits . . . . .									
For whole term of life . . . . .									
Other classes (to be specified) . . . . .									
Extra premiums . . . . .									
Total Insurances . . . . .									
Deduct—Re-insurances . . . . .									
Net Insurances . . . . .									
<b>Group B.—</b>									
With deferred participation in profits . . . . .									
For whole term of life . . . . .									
Other classes (to be specified) . . . . .									
Extra premiums . . . . .									
Total Insurances . . . . .									
Deduct—Re-insurances . . . . .									
Net insurances . . . . .									
<b>Group C.—</b>									
Under discounted bonus systems . . . . .									
For whole term of life . . . . .									
Other classes (to be specified) . . . . .									
Extra premiums . . . . .									
Total Insurances . . . . .									
Deduct—Re-insurances . . . . .									
Net insurances . . . . .									
Total insurances with profits . . . . .									

SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**85**

Description of Transactions.	Particulars of the Policies for Valuation.				Valuation.				
	Number of policies.	Sums Assured.	Bonuses.	Office Yearly Premium	Net Yearly Premiums.	Sums Assured and Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Net Liabilities.
Group D.—									
Without participation in profits									
For whole term of life									
Other classes (to be specified)									
Extra premiums									
Total insurances									
Deduct—Re-insurances									
Net insurances									
Total Insurances without profits									
Total of the insurances shown in all groups									
Deduct—Re-insurances									
Net amount of insurances									
Adjustments, if any (to be separately specified)									
DIVISION II.									
<i>Annuities on Lives.</i>									
Immediate Annuities									
Deferred Annuities with return of premiums									
Deferred Annuities without return of premiums									
Other classes (to be specified)									
Total Annuities									
Deduct—Re-insurances									
Net Annuities on Lives									
Total of the results (after deduction of Re-insurances)									

## Notes.

1. Items in this Summary are to be stated to the nearest rupee.
2. No policy of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, is to be included in Groups A, B, C or D of this Form: any such policies must be shown in a separate Group which must be added to the form.
3. If policies without participation in profits but with a guaranteed rate of bonus are issued they must be separately specified in Group D of this Form.
4. Policies under which there is a waiver of premiums during disability must be shown as a separate class.
5. Separate forms must be prepared in respect of classes of policies valued by different tables of mortality or at different rates of interest or involving the valuation of net premiums on different bases.
6. In cases where separate valuations of any portion of the business are required under local laws in places outside British India and reserves based on such valuations are deposited in such places, a statement must be furnished in respect of the business so valued in each such place showing the total number of policies, the total sums assured and bonuses, the total office yearly premiums, and the total net liability on the bases as to mortality and interest adopted in each such place with a statement as to such bases respectively.
7. Office and net premiums and the values thereof must be shown after deduction of statement made by the application of bonus.







**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**87**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

## THE FIFTH SCHEDULE.

(See section 11.)

*Regulations for preparing statements of business in force and requirements applicable to such statements.*

## PART I.

*Regulations.*

1. Statements prepared under this Schedule must be prepared, so far as practicable, in tabular form and must be identified by members and letters corresponding with those of the paragraphs of Part II of this Schedule.

2. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule are to be shown to the nearest rupee.

3. Extra premiums shown in the forms of Summary and Valuation prepared under the Fourth Schedule to this Act must not be included in statements prepared under this Schedule.

4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connection with which it is prepared.

5. For the purposes of this Schedule the following expression have the meanings hereby respectively assigned to them, namely:—

- (a) "Annual loading" means the provision made for future expenses and profits;
- (b) "Extra premiums" means a charge for any risk not provided for in the minimum contract premium;
- (c) "Net premiums" means the premiums taken credit for in the valuation in connection with which any statement is prepared; and
- (d) "Valuation date" means as respects any valuation the date as at which the valuation is made.

## PART II.

*Requirements for statements applicable to Life Insurance Business.*

The statements required to be prepared under this Part of this Schedule are as follows, namely:—

1. Statements, separately prepared in respect of policies with and without participation in profits, showing—

- (a) as respects policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive; and
- (b) as respects endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use, for the new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for decennial ages at entry from 20 to 40 inclusive but excluding policies under which the age at maturity exceeds 60.

2. Statements, separately prepared in respect of policies with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits, showing in quinquennial groups—

- (a) as respects policies for the whole term of life—
  - (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped according to ages attained;

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

- (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained; and
  - (iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and, either, the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation, or, the annual loading reserved for the remaining duration of the policies, grouped according to ages attained;
- (b) as respects endowment insurance policies—
- (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation; and
  - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums, grouped in accordance with the grouping adopted for the purposes of the valuation:

Provided that—

- (a) as respects endowment insurance policies which will reach maturity in less than five years, the information required by sub-paragraph (b) (i) of this paragraph must be given for each year instead of in quinquennial groups; and
  - (b) where the office premiums payable under policies for the whole term of life for a limited number of years, or the office premiums payable under endowment insurance policies, or the corresponding net premiums, are grouped for the purposes of the valuation otherwise than according to the number of years payments remaining to be made, or, where the sums assured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year, then, in any such case, the valuation constants and an explanation of the method by which they are calculated must be given for each group, and in the case of sums assured under endowment insurance policies a statement must also be given of the amount assured maturing for payment in each of the two years following the valuation date.
3. Statements as respects any policies in force under which premiums cease to be payable, whether permanently or temporarily, during disability arising from sickness or accident, showing the total amount of the office premiums payable.
4. Statements as respects immediate annuities on single lives for the whole term of life, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of such annuities.
5. Statements as respects deferred annuities, separately prepared in respect of annuities on male and female lives, showing the specimen reserve values for annuities of one hundred rupees which will be produced on maturity on the basis of valuation adopted at ages, in the case of male lives, 60 and 65, and in the case of female lives, 55 and 60; the said statements must show

**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**89**

## SCHEDULES AND FORMS OF THE GOVERNMENT BILL.

the specimen reserve values which will be produced under the table of annual premiums in use for new policies, and if under any other table of annual premiums in use for any other deferred annuity policies in force smaller reserve values will be produced, the like specimens of these must also be given.

6. Statements as respects any policies of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, showing the total claims paid since the date as at which the last statements were prepared under this Part of this Schedule or, where no such statements have been prepared, since the date on which the insurer began to carry on the class of business to which the statements relate, and the reserves for unexpired risks and outstanding claims.

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**THE SIXTH SCHEDULE.**

(See section 40.)

*Rule as to the valuation of the Liabilities of an Insurer in Insolvency or Liquidation.*

The liabilities of an insurer in respect of current contracts effected in the course of life insurance business including annuity business, shall, subject to any directions which may be given by the Court, be calculated upon the basis of the rate of interest and rates of mortality and sickness upon which in the opinion of the liquidator or official assignee or receiver the like calculation could properly be based if the obligations under the contracts were to be fulfilled as and when they became due, taking into account the premiums which would be received under the contracts and such sum as, in the opinion of the liquidator or official assignee or receiver, is the lowest that could properly be assumed in respect of the office expenses and other charges which would be incurred in respect of the contracts.



**PROPOSED ADDITIONS, AMENDMENTS, ALTERATIONS AND REMARKS**

**90**

### STATEMENT OF OBJECTS AND REASONS.

The law relating to insurance in British India is contained in Act V of 1912, which regulates Provident Insurance Societies, Act VI of 1912, which regulates Life Assurance Companies, and Act XX of 1928, which amended the latter in certain respects but was primarily aimed at providing for the collection of statistical information in respect of insurance business other than life insurance business carried on in India by external companies.

2. The marked increase in the volume of life insurance business, and the development of other forms of insurance business in British India since 1912 soon suggested that more comprehensive legislation was needed. A Bill was prepared in 1925 to extend to other classes of insurance business the supervision already exercised over life insurance. The appointment in England almost simultaneously of a departmental committee presided over by Mr. A. C. Clauson, K.C., to report on the amendment of the Assurance Companies Act, 1909, on which the Indian Act VI of 1912 had been largely based, decided the Government of India to postpone that Bill, and await the legislation resulting from the Clauson enquiry. The enquiry, however, though completed in 1927, was not immediately followed by, and has not yet resulted in legislation in England, although the report of the committee contained a draft bill embodying the recommendations of the committee for the re-enactment of the 1909 Act with extensive modifications. In the meantime Act XX of 1928 was passed by the Indian Legislature, and it was hoped that the information collected through it would be of value when the time came to consider the problems affecting Indian insurance.

3. In 1935 the Government decided to proceed with the reform of insurance law without waiting for the enactment of legislation in England. Mr. S. C. Sen was placed on special duty to examine the material which had been collected concerning the amendment of company law in general, and insurance law in particular. In 1936 the Indian Companies (Amendment) Act, 1936, was passed. The project of revising the law of insurance was at once taken up. A small advisory committee of experts representing various interests was assembled in the autumn of 1936 to consider in detail the various recommendations contained in Mr. Sen's report. This Bill embodies the proposals which Government has decided to submit to the Legislature after consideration of Mr. Sen's recommendations and the opinions of the advisory committee.

4. The draft Bill includes in one enactment the subjects dealt with by the two separate Acts of 1912, but relegates the provisions relating to Provident Insurance Societies to a separate part.

It provides *inter alia* for the following matters. It increases the supervision exercised over all concerns transacting insurance business of whatever kind in British India, whether these are indigenous concerns, or external companies represented in India by branches or agencies, and treats agents acting for Lloyd's underwriters on the same basis as such branches or agencies. Registration formerly unnecessary except for Provident Insurance Societies is proposed for general application, and the principle of exacting deposits, hitherto applied only to indigenous companies transacting life insurance business, has been similarly extended. The amount of the deposit has been increased with the object of more effectively discouraging the formation of companies inadequately financed, and where the business of life insurance is to be carried on a minimum net sum of Rs. 50,000 is

required as working capital. Provision is made for full disclosure of the information required to ensure sound principles of finance and management. Powers to enforce punctual submission of returns and to ensure their accuracy, and additional powers of inspection of insurance companies are taken. External companies are required to keep in their principal offices in British India the accounts and other documents by which their returns concerning their business in India can be checked. Certain restrictions are imposed on the investment of the funds of insurance companies, and external concerns are required to keep a portion of their assets invested in Indian Government securities. The existing provisions of the law relating to winding up of insurance companies, and to the amalgamation and transfer of insurance business have been enlarged. Provisions have been inserted to regulate the assignment and transfer of policies of life insurance and the making of nominations. Power is given to companies to pay into Court moneys due under a policy where there is difficulty in securing a proper discharge. It is proposed to prohibit the employment of Managing Agents in future, and to bring existing Managing Agencies to an early end. In order to secure fair treatment for Indian insurance companies operating in foreign countries power is taken to subject the nationals of a foreign country to any restrictions that are imposed in that country on Indian insurance concerns operating there. Certain proposals are put forward aimed at checking the practice of rebating and the payment of excessive commission. These include provision for the licensing of insurance agents. The administration of the Act will be carried out through the Superintendent of Insurance, who will normally be the Government Actuary. To him also is assigned the supervision of Provident Insurance Societies.

5. The provisions relating to Provident Insurance Societies subject these to much more effective supervision than has hitherto been exercised. The name adopted by any such society will indicate its status. Business on the dividing principle is prohibited so that societies dependent on this class of business will disappear. A minimum initial working capital is required, and the principle of deposits is applied. The rules of a society will disclose fuller information of the working of the society. All schemes of insurance operated by a society are to be subjected to actuarial examination so that unsound schemes may be eliminated, and periodical actuarial investigation must be made into the financial condition of the society. Proper books of account must be maintained, and the accounts must be audited. Separate classes of business must be brought separately to account, and a separate fund must be maintained in connection with a particular group of contingencies. Assets are further protected by a provision requiring the investment in trust securities of a certain percentage of the total assets. Increased powers of inspection and inquiry are taken. Other features of this Part are the application to policies issued by Provident Societies of the provisions governing transfer and assignment of life insurance policies and nominations. Liquidation procedure, formerly governed by rules made by the Local Government, is now to be provided for in the Act itself.

N. N. SIRCAR.

The 12th January, 1937.

APPENDIX No. 1.  
(See Section 3 (2) F.)

**LIST OF SUBSIDIARY COMPANIES WHICH APPEAR TO HAVE NO SEPARATE IDENTITY.**

Name of Company.	Remarks.	Underwriting Agents in Bombay.	Underwriting Agents in Calcutta.
Asiatic Fire Insurance Co.	Owned by "Sun" Fire Office of London. Cannot trace any independent existence. Enquiry for Balance Sheet, produced Balance Sheet of Sun Fire.	Messrs. Greaves Cotton & Co., Ltd.	...
Eastern Insurance Co. Ltd.	Incorporated in the "Triton" of Calcutta. Enquiry for Balance Sheet produced that of "Triton".	Attorney: L. Randall	Jardine Skinner & Co., Managing Agents and others.
Equitable Fire Office.	All shares bought by "London & Lancashire" in 1901. Paid part cash and part shares in "London & Lancashire".	Furdoonjee & Son.	Mackinnon Mackenzie & Co.
Greater Britain Insurance Corporation, Ltd.	Direct Fire & Accident business acquired by "North British & Mercantile" in 1921. The "Greater Britain" appears to have been wound up in 1922.	The Hon. Sir Phiroze C. Sethna.	...
Imperial Insurance Co.	Shareholders given shares of "Alliance" of London, in 1902.	Sorabjee Kharas & Co.	Begg Dunlop & Co. Ltd.
Indian Guarantee & General Insurance Co. of Bombay.	Enquiry for Balance Sheet produced that of "General Accident" but it seems possible that the Company may be independent. Presumably the Branch Office of "The General Accident" in Bombay is the Head Office. There are Directors.	General Manager: L. G. B. Gould. Agents: Herbert Sons & Co.	...

Name of Company.	Remarks.	Underwriting Agents in Bombay.	Underwriting Agents in Calcutta.
Lancashire Insurance Co.	Taken over by "Royal" in 1901. "Royal" paid part cash and part "Royal" shares.	Sir Cowasjee Jehangir & Co.	Duncan Bros. & Co. Ltd.
Lion Fire Insurance Co. Ltd.	Shareholders given shares of the Yorkshire Insurance Co. in 1902.	Wilson Latham & Co. Ltd.	...
Liverpool Victoria Insurance Corporation.	Business transferred to "Commercial Union" in 1912. Entered into Voluntary liquidation in 1914.	Dalvie Brothers.	...
Manchester Assurance Co. Ltd.	Shareholders given "Atlas" shares in 1904.	Tulsidas Khimji.	Jardine Skinner & Co.
National Assurance Co. of Ireland.	Absorbed by "Yorkshire" in 1904. Appears to have gone into voluntary liquidation in 1906. Liquidation closed 1917.	M. P. Goculdas & Co.	...
North Western Insurance Co.	Acquired by "British Dominions General" (now Eagle Star & Br. Dominions) in 1914. Cannot trace any independent existence.	Curramsey & Co.	...
Scottish Alliance Insurance Co.	Transferred to Union Assurance Co. (since allied with "Commercial Union") in 1903. No separate Head Office, so far as can be traced.	Bhaichand Amoluk & Co.	...

Name of Company.	Remarks.	Underwriting Agents in Bombay.	Underwriting Agents in Calcutta.
British Fire Insurance Co. Ltd.	Transferred to "London & Lancashire" in 1823. Shareholders given part cash and part "London & Lancashire" shares. Head Office given as 5, Chancery Lane. (N.B. Head Office of "London & Lancashire" is 7, Chancery Lane.)		Cox & Kings (Agents) Ltd.
Commercial Fire & Marine Insurance Co.	Belongs to "South British". No further information.		Mornington & Co.
Insurance Co. "Veritas"	Associate of "Batavia" which latter now subsidiary of "Royal Exchange" No further information.		J. C. Duffus & Co. Ltd.
Oceanic Fire & Marine Insurance Co.	Owned by "South British". No further information.		David Sassoon & Co. Ltd.
Batavia Sea & Fire Insurance Co. Ltd.	All Subsidiary Companies, but as established outside Great Britain and India, have no information as to position. All working in India.		
British Traders Insurance Co. Ltd.			
China Fire Insurance Co. Ltd.			
Eastern United Assurance Corporation Ltd.			
Java Sea & Fire Insurance Co. Ltd.			
Maiji Fire Insurance Co. Ltd.			
Yangtze Insurance Co. Ltd.			

## APPENDIX NO. II.

(See Sections 3 (9), 88 D, 88 E).

**INSURANCE IN IRISH FREE STATE**

(Reprinted from Post Magazine &amp; Insurance Monitor, 21st March 1936.)

**Amendments to New Bill.**

The amendments proposed to the Insurance Bill are now published and while the list may not be final most of the controversial ground is covered by more than 250 amendments, of which approximately one half emanate from the Minister himself. In considering the proposals it will be desirable to attempt some classification, for while the Government changes are almost certain to be accepted by the Dail, those proposed by the Labour Party are less likely, although the alignment of parties is such that the Labour amendments will not be rejected without good reason. Finally, there are amendments from the Opposition for which the customary fate may be expected.

**EXTENSION OF SCOPE OF BILL.**

The first striking change proposed by the Minister is that forecast in these notes three months ago, and the controlled classes of business will now include public liability, engineering, glass, guarantee and burglary insurance. The deposit of £20,000 will cover these classes as well as fire, accident and workmen's compensation; and the additional classes will be among those excluded from the operations of the life companies. A company transacting glass business only will be exempt from the deposit. A new provision will debar external companies from carrying on any class of business not transacted at the time the Bill was introduced. A company confining its operations to the insurance of religious proposals will also be exempt from the deposit provision.

The section giving the Minister power to fix rates will be amended by a provision for prior consultation with the companies.

**REINSURANCE PROVISIONS.**

The reinsurance section is, as yet, subject to little change. There is a new section giving the reinsurance company the right to refuse an individual risk unless the ceding company retains such amount as the reinsurance company may require, and this will not be regarded as an improvement on the original draft. The accounts to be furnished by the companies will have to show reinsurance ceded and taken. The part of the Bill dealing with the reinsurance has, however, roused so much discussion that it would be idle to speculate the final form which the Government, with so many examples of schemes in other countries, will decide is most likely to accord with its desires.

A further Government amendment is that where a proposer fills in his proposal wholly in the Irish language he will be entitled to a policy in Irish. None of

the Companies, local or external, have facilities for such an arrangement, and the result may be that language enthusiasts will find difficulty in obtaining such policies unless they are willing to pay for the cost of their production.

#### PROPOSALS OF LABOUR PARTY.

The Labour Party naturally proposes a scheme of compensation for employees who may be displaced, and the question is one which will have to receive serious consideration. They also propose further discrimination against external companies, a doubling of deposits and of license fees, and a single license to be applicable to a company and its subsidiaries. This latter proposal would destroy the hopes of those companies who would carry on either life or general business through a subsidiary. It is also suggested that the additional classes of business, the insurance of public authorities; the insurance of private houses and of premises with a rateable value not exceeding £50 should be confined to local companies.

Another proposal is that any firm which has received Government assistance by loan or grant should insure with a Saorstat Company. The definition of Saorstat Company is the subject of an amendment which may be accepted, for the requirement of local control, as one which would accord with the popular conception of what an Irish Company should be. Another amendment would allow insurance with a Saorstat Company where it is now prevented by covenants in the leases of ground landlords, and this also will have undoubted popular appeal. A detailed regulation for the procedure of the reinsurance company is less likely to be approved, but the proposal to give the Minister power to reserve classes of business to Saorstat Companies may be regarded as in sympathy with Government policy. Another Labour suggestion would require companies to have their printing done with Irish material and by workers and under trade union conditions.

#### OPPOSITION AMENDMENTS.

A number of Opposition amendments stand in the name of Mr. Lynch, a former Minister of the Cosgrave regime. He would have a compensation fund for displaced employees, licenses for agents, compulsory reinsurance of 50 per cent of every risk, a 5s. fee on life premium incomes, and a scale by which no external company could transact in any one year more than 90 per cent of the business done in the previous year.

Finally, a Mr. Bourke, Opposition deputy and a director of a local company, has a large number of amendments down for consideration though they appear to constitute a form of special pleading rather than the policy of his party. He would create a new class of "National" company confined to companies incorporated between 1916 and 1921, apparently on the principle that in the intervening 15 to 20 years such companies have reached an age which entitles them to special respect, while at the same time having an immaturity which would justify their exemption from the standard of stringency which the Bill seeks to apply. Actually, however, only one company would seem to be included in the scope of his definition.



He also would have licenses for agents, and the 90 per cent scale for new life business, no rebate of income tax on new life policies issued by external companies, rates passed by the Minister to be minimum as well as maximum, reinsurances of 33 1/3 per cent for values exceeding £2,000/- and would reserve to local companies the insurance of public authorities, the insurance of private houses upto £2,000/- value, engineering, plate glass, solicitor's indemnity and trustee's indemnity insurance and the issue of court bonds.

The sections dealing with industrial life assurance are also subject to a large number of amendments from all parties, which it is impossible to consider in detail.

APPENDIX NO. III.  
(See Sections 88 D and 88 E).

**USE OF INDIAN MATERIAL**

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**EXTRACT FROM THE REPORT OF THE INDIAN TARIFF BOARD 1932.**

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(Regarding the grant of protection to the Cotton Textile Industry)

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**Personnel of the Board.**

President	..	..	..	Dr. J. Matthai.
Members	..	..	..	{ Mr. Fazal Ibrahim Rahimtoola. { Mr. G. T. Boag, C.I.E., I.C.S.

(Paragraph No. 204—Page 192).

The Indian Merchants' Chamber of Bombay have made a strong plea for the encouragement of various Indian industries engaged in the production of articles used in the cotton textile industry. We are in entire sympathy with the point of view urged by the Chamber that unless the policy of protection results in the development not merely of the industries to which protection is granted, but also of subsidiary industries, it will have failed to achieve its full purpose. We consider that if protection for the cotton textile industry is extended for the period we have proposed every effort should be made by millowners to encourage use of Indian materials in their mills. This is a matter in which millowners themselves should take the necessary initiative by getting into closer touch with Indian commercial and industrial bodies interested in the sale or production of articles used in the cotton textile industry. The proposals which we have made regarding the measure and period of protection will impose a burden on the country for which in our opinion it is the obvious duty of millowners to provide a commensurate return to the country in the form of additional employment for Indian labour and capital. Similarly it has been brought to our notice that Indian insurance companies do not at present receive enough encouragement from the mill industry. There has been a large expansion of Indian insurance business in recent years which has been of immense advantage to the country in many directions. We desire to impress on Indian millowners the importance in the public interest of supporting the development of this business. In making the recommendations contained in this paragraph, we feel it our duty at the same time to urge the very necessary qualification that nothing in what we have stated is intended to limit the discretion of the mill industry as regards the standards which may be considered reasonable in the matter of the cost, quality or safety of the goods or services required by it.

APPENDIX NO. IV.  
(See Sections 23 (i), 23 (ii) )

**INVESTMENT OF INSURANCE COMPANIES FUNDS**

**EXTRACT FROM THE REPORT OF THE BOMBAY PROVINCIAL  
BANKING ENQUIRY COMMITTEE 1929-30.**

PERSONNEL OF THE COMMITTEE.

- (1) Mr. J. A. Madan, C.I.E., I.C.S., Chairman.
  - (2) Mr. V. L. Mehta, B.A., Co-operative Expert.
  - (3) Prof. V. G. Kale, M.A., Indian Economist.
  - (4) Mr. Jamshed N. R. Mehta of Karachi, representative of Commerce.
  - (5) Mr. G. Sugdury of Messrs. Ralli Bros., representative of Commerce.
  - (6) Mr. Hirachand Vanechand Desai, representative of Indigenous Bankers.
  - (7) Mr. B. S. Kamat, representative of Agricultural Interests.
  - (8) Mr. P. R. Chikodi, B.A., M.L.C., representative of Urban Interests.
- Mr. R. P. Masani, M.A., Secretary.

Volume I.

(Paragraph No. 301—Page 229)

Non-Indian insurance companies compete with Indian companies in both fields of insurance, and especially in that of general insurance. As observed above, these Indian companies are of recent origin. Further, for the insurance of articles of import and export, the non-Indian companies enjoy, in a large measure, the patronage of the exchange banks. Whether there is any discrimination, is a question which may be examined by the Central Committee, as our terms of reference do not include the operations of exchange banks. There is, however, one aspect of the business of non-Indian insurance companies which has a vital bearing on the development of the banking resources of the country. These companies raise large funds in India on the insurances they effect, and these growing funds merge in the general resources of the companies at their various places of domicile. We have had no means of ascertaining what portion of these funds are permanently invested in India to the benefit of the national resources of the country. In any case, there is no obligation on any non-Indian company to invest a certain proportion of its funds in India, although we understand that Indian companies are subjected to such a restriction in a number of countries. In several countries, companies have to deposit a fixed amount before they can open business. In some, the deposit is increased according to the business secured in that country. In other countries they have, in addition, to invest a certain proportion of their income from premia in the securities of that country. In view of the credit needs of India herself, and the depletion caused in her banking resources by the withdrawal for investment out-