

Monday, 23rd January, 1922

THE  
**COUNCIL OF STATE DEBATES**  
(Official Report)

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**SECOND SESSION**  
OF THE  
**COUNCIL OF STATE, 1922 "**



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# CONTENTS.

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	Page
<b>TUESDAY, 17TH JANUARY, 1922</b> . . . . .	521-584
Oaths.	
Death of Mr. Malcolm Macgregor Hadow.	
Congratulations on Knighthood conferred on the President.	
New Council Chamber.	
Business for the day.	
Questions and Answers.	
Announcement regarding Address of Welcome to H. R. H.	
Statements laid on the Table.	
Bills as passed in Legislative Assembly.	
Message from Legislative Assembly.	
Address of Welcome to H. R. H. the Prince of Wales.	
Benares Hindu University (Amendment) Bill.	
Official Business during January 1922.	
Adjournment of Council.	
<b>WEDNESDAY, 18TH JANUARY, 1922</b> . . . . .	585-645
Resolution <i>re</i> : Conference of Representatives to consider Political Situation.	
Resolution <i>re</i> : Separation of Burma from the rest of the Indian Empire.	
Resolution <i>re</i> : Exemptions under the Indian Arms Act, 1878.	
Resolution <i>re</i> : Round-table Conference.	
<b>MONDAY, 23RD JANUARY, 1922</b> . . . . .	647-660
Oath.	
Bills assented to by H. E. the Viceroy.	
Report of Joint Committee on Indian Income-tax Bill.	
Benares Hindu University (Amendment) Bill.	
Indian Electricity (Amendment) Bill.	
Indian Factories (Amendment) Bill.	
Electric Heaters for Council Chamber.	
<b>WEDNESDAY, 25TH JANUARY, 1922</b> . . . . .	661-689
Council Chamber, Metcalfe House.	
Resolution <i>re</i> : present unrest.	
Resolution <i>re</i> : retrenchment and economy in national expenditure.	
Adjournment of Council.	
Vol. II—Pt. II.	

# COUNCIL OF STATE.

*Monday, the 23rd January 1922.*

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

## MEMBER SWORN:

The Honourable Mr. Charles Maurice Baker.

## BILLS ASSENTED TO BY HIS EXCELLENCY THE VICEROY.

The SECRETARY OF THE COUNCIL: Sir, information has been received that His Excellency has been pleased to grant assent to the following Bills:—

The Indian Marine (Amendment) Act, 1921;  
The Indian Works of Defence (Amendment) Act, 1921;  
The Negotiable Instruments (Amendment) Act, 1921;  
The Carriers (Amendment) Act, 1921;  
The Indian Lac Cess Act, 1921;  
The Indian Post Office (Amendment) Act, 1921;  
The Indian Penal Code (Amendment) Act, 1921;  
The Cattle-trespass (Amendment) Act, 1921;  
The Maintenance Orders Enforcement Act, 1921;  
The Land Acquisition (Amendment) Act, 1921.

## REPORT OF JOINT COMMITTEE ON INDIAN INCOME-TAX BILL.

The SECRETARY OF THE COUNCIL: Sir, I beg to lay on the table the Report of the Joint Committee on the Bill to consolidate and amend the law relating to Income-tax and Super-tax, which was presented to the Legislative Assembly on the 18th January 1922.

## BENARES HINDU UNIVERSITY (AMENDMENT) BILL.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI: Sir, I beg to move that the Bill to amend the Benares Hindu University Act, 1915, be taken into consideration.

The motion was adopted.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI: I beg to move that the Bill be passed.

The motion was adopted.

## INDIAN ELECTRICITY (AMENDMENT) BILL.

The HONOURABLE MR. H. A. F. LINDSAY: Sir, I beg to move that the Bill further to amend the Indian Electricity Act, 1910, as passed by the Legislative Assembly, be taken into consideration.

The HONOURABLE MR. C. A. INNES: Sir, I ask permission to say a very few words in explanation of this Bill. It is a difficult Bill and perhaps a dull Bill, but, at the same time, it is not without importance for the consumers and suppliers of electricity in this country. In this

[Mr. C. A. Innes.]

Council, Sir, which contains so many eminent business men, I need not enlarge on the importance of fostering the development of electrical enterprise. Originally electrical energy was used in India almost entirely for lighting, for fans, and for tram-car services in the towns. These services are of great importance to the community, but new uses are continually being found for electrical energy. Here, as elsewhere, it is tending more and more to become the handmaid of industry. It is tending to displace steam as a source of industrial power, and in those parts of the country where hydro-electric schemes are feasible, its potentialities as a factor in industrial development are illimitable. Now the best way in which Government can foster electrical enterprise and can attract capital to it is by wise and equitable regulation of the supply and use of electrical energy, and this is the reason why periodically we overhaul our Electricity Act, bring it up to date to suit changing conditions, and correct the errors which experience has brought to light. And naturally we do not interfere with so technical an Act without calling expert opinion into counsel at every stage of our proceedings. This has always been our policy. Our first Act was passed in 1903. It was replaced, seven years later, by the Act which we now seek to amend. On the whole, this Act has stood the test of time remarkably well. Certain small defects have been brought to our notice from time to time, but, considering the lapse of time since the existing Act was drafted, the wonder is that the defects are not more numerous and more important. Such as they are, however, we wish to correct them. The first suggestions for amendment came from the Electrical Conference of 1916 which was attended by Electric Inspectors and representatives of Electric Supply and Traction Companies all over India. The conferences of the two following years again subjected the Act to detailed scrutiny. Their suggestions were carefully examined by our own Electrical Adviser, and opinion throughout India was again consulted through Local Governments. Then a Bill was introduced in the other House last Delhi Session. It has been examined clause by clause by a Joint Committee which contained distinguished representatives of both Houses, and it has passed through the other House. The final product, Sir, is the Bill which the House is now considering. I have entered into these details, Sir, because they substantiate my claim that the changes we suggest in the present Act have not been proposed without taking the public fully into our confidence and without careful consultation of those best able to advise us.

The changes which we propose to make have been explained in detail in the Notes on Clauses appended to the Bill as introduced and in the Joint Committee's Report. I do not propose, therefore, to deal with them in detail, and I will content myself with drawing the attention of the Council to one or two of the more important of them.

I have already referred to the increasing use of electric energy for industrial purposes. Clause (9) of the Bill has a direct bearing on this question. It regulates the manner in which charges for current may be made, and it expressly authorises a licensee, in calculating his charges, to take into account a consumer's load factor. It authorises him, that is, to reduce his charges for consumers who take the most paying load, and it should have the effect definitely of encouraging the use of electric power for industrial purposes.

The amendments in sections 20 and 24 of the Act are intended to remove, subject to due safeguards for the consumer, certain difficulties which licensees have experienced in recovering their just dues.

In the same connection, I may refer to section 39 of the Act. This section penalises the theft of energy, but in actual practice it has not proved very effective. It is usually impossible to prove who actually made an illegal connection; yet unless we succeed in doing this, it is usually impossible to obtain a conviction. Government originally proposed, therefore, to lay upon the consumer, for whose benefit the illegal connection was proved to exist, the onus of proving that he was not guilty of dishonest abstraction. It was felt, however, by a majority of the Joint Committee that the proposed amendment went too far, that it laid upon the consumer an obligation which for no fault of his own he might not be able to discharge, and in short that it was a dangerous remedy. This decision has been endorsed, at any rate, it has not been challenged, by the other House, and the Government do not propose to press their original suggestion.

Clause 17 of the Bill is another important clause. Section 36 of the Act as now drafted gives a general right of appeal to a Local Government against the decisions of an Electric Inspector. But, Sir, the subject-matter of such an appeal is usually very technical, and such appeals, as a matter of course, are referred by the Local Government to the very officer whose decision is in question and whose opinion the Local Government is not ordinarily in a position to challenge. The right of appeal, therefore, is to some extent illusory, and, in the interests of licensees and consumers alike, we propose specifically to empower Local Governments to refer such appeals to the Advisory Board constituted by section 35 of the Act.

There is only one other clause to which I need refer, namely, clause 28. Clause VI of the existing Schedule gives a Local Government power, after a certain period, to reduce the maximum rates which a licensee is empowered to charge by his license.

Section 7 of the Act empowers a Local Government, in certain circumstances, to buy out a license. It has been represented to us that it is unfair that both powers should be vested in one and the same authority. The powers are not likely to be abused. But it cannot be denied that *prima facie* there is reason in the complaint, and we propose to remedy the position by prescribing that a Local Government's powers under Clause XI of the Schedule should not be exercised without reference to the Advisory Board.

I do not think, Sir, that I need trouble the Council further, and I commend the Bill to their favourable consideration.

**THE HONOURABLE THE PRESIDENT:** The question is—

‘that the Bill further to amend the Indian Electricity Act, 1910, as passed by the Legislative Assembly, be taken into consideration.’

The motion was adopted.

**THE HONOURABLE MR. H. A. F. LINDSAY:** Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

**THE HONOURABLE THE PRESIDENT:** The question is—

‘that the Bill further to amend the Indian Electricity Act, 1910, as passed by the Legislative Assembly, be passed.’

The motion was adopted.

## INDIAN FACTORIES (AMENDMENT) BILL.

**THE HONOURABLE MR. H. A. F. LINDSAY:** Sir, I move that the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be taken into consideration.

THE HONOURABLE MR. C. A. INNES: Here, again, Sir, I ask permission to offer some explanation of the provisions of this Bill, and I make no apology for taking up the Council's time, for the Bill is an important Bill. We are amending the Indian Factories Act for various reasons. In the first place, the Act dates back from 1911, and it is only natural that ten years' experience of the working of the Act should have disclosed defects. But we are doing more than merely remedying defects. We believe that the time has come for an advance in our Factory law. Industrial undertakings in India have increased in number and in size. Public opinion has become more educated, our hands have been strengthened by the coming into being of the Reformed Councils, and we are satisfied that reforms in Factory law, which ten years ago could not have been contemplated, will now commend themselves not only to those directly interested—whether employers or workmen,—but also to the public at large. And, finally, we have certain international obligations to meet. I need not remind the Council that a year ago they recommended that the Government of India should ratify certain Conventions and Recommendations adopted by the International Labour Organisation of the League of Nations at Washington in October 1911. The Bill gives effect to these obligations. In one sense it is the fulfilment of a pledge, and in some of its most important features it has already been accepted in principle by the House. The Council, for instance, has already accepted the principle of a 60-hour week for factory labour.

As usual, Sir, the ground has been explored with great care. As I have already mentioned, the Conventions and Recommendations of the Washington Conference have already been discussed by the Legislature. Local Governments, and, through Local Governments, industrial organizations, have been consulted, and, finally, the Bill has been carefully examined by a strong Joint Committee of both Houses of the Legislature. The Report of the Joint Committee was not unanimous. It would be too much to expect complete unanimity of opinion on a Bill which touches so many conflicting interests so nearly. But I think I may claim, Sir, that the Bill represents a fair compromise between extreme views on one side and the other. At any rate, I am certain that it has been most carefully examined and that it represents a real step in advance.

The changes made by the Bill in our existing Act are numerous, but I do not propose to examine them all in detail. I think that I shall explain sufficiently the objects which we have in view if I deal briefly on broad lines with the main features of the Bill.

The first point to which I desire to draw attention is, the changes we have made in the class of factory to which the law will apply. In the first place, we have greatly extended the definition of "factory." The existing Act includes only those factories which use mechanical power and employ not less than 50 persons, but gives Local Governments power to apply the law to factories using mechanical power and employing not less than 20 persons. By clause 2 (b) of the Bill we extend the definition so as to include factories using mechanical power and employing not less than 20 persons; and we give Local Governments power to extend the operation of the Act to factories which employ not less than 10 persons, whether they use mechanical power or not. This is an important change in the law, as Honourable Members will realise if they consider it in relation to our other proposals for the limitation of hours of work and the restriction of the employment of children. But I confess that we would have liked

to go even further. Small factories are multiplying fast in India, and there is reason to believe that it is in small factories rather than large that abuses are most likely to occur. But for practical reasons we have judged it necessary to go slow. It is the Local Governments that will have to administer the Act, and we feel that we must leave it to them to decide how far they can undertake the expense of regular and effective inspection of small factories employing less than 20 persons. The larger factories, it should be remembered, tend to group themselves round towns; smaller factories spring up anywhere and the cost of inspection is disproportionately high.

We have made another important change in regard to the application of the Act. The present Act draws a distinction between textile and non-textile factories. It limits the hours of work for the former, but not for the latter. There may have been good reason for the distinction ten years ago in that textile factories are uniform in type, and it was easy to design a law which could safely be applied to all of them. But whatever the reasons may have been, we consider that it no longer exists, and we propose to abolish the distinction altogether.

Again, the treatment of exemptions in the present Act is not very satisfactory. Some classes of factories are altogether exempted from the operation of the Act by section 3. Others are exempted from the operation of certain sections by Schedules or by express sections. And, finally, principles are laid down on which further exemptions can be granted. We have altered all this. We limit the definite exemption from the operation of the Act to one single class of factories, namely, Mines, the case of which is under separate consideration.

For the rest we have contented ourselves in Chapter V of the Act, as amended with laying down the principles on which exemptions from particular sections should be granted, and leaving it to Local Governments to deal with each case or class on its merits. We have also given Local Governments that latitude of action in regard to quasi-agricultural factories which we are advised to be necessary. This part of the Bill relating to exemptions is very important, and was examined by the Joint Committee with special care. It is intended to provide machinery whereby the operation of the Act can be prevented from being unduly oppressive in certain cases and to certain special classes of industrial undertakings.

I now come, Sir, to some of the more detailed provisions of the Act. We propose definitely to assert the principle that the hours of work in all factories should be limited. Under the existing Act the hours of work in textile factories are limited to 12 hours a day, and section 24 of the Act limits women's labour to 11 hours in one day. But there is no limitation on the hours of work of adult males in non-textile factories. Now, Sir, I do not propose to go into the history of this question, nor to refer to the recommendations of the Indian Industrial Commission, the discussions with Local Governments and the changes which certain industries—notably the important textile industry of Bombay—have made in this direction of their own volition. I have already reminded the Council that they have accepted the general principle of a 60-hour week for all factories, and this principle has been embodied in clause 27 of the Bill. Our original intention was that the daily limit of hours of work should be fixed at 12, but the Joint Committee has recommended that the daily maximum should be reduced to 11, and we readily accept the change.

[Mr. C. A. Innes.]

It is unnecessary for me to dilate on the importance of this change, but I may perhaps emphasise the fact that its importance lies mainly in the statutory recognition of the principle. I trust that it will not embarrass industries, partly because many of them already observe a 60-hour limit, and partly because the limitation applies only to the hours of work of labourers, not to the hours of work of the machinery. All factories are at liberty to work continuously day and night if they so desire, provided that a suitable form of shifts is adopted. Provision is made in certain special cases by the sections dealing with exceptions to which I have already referred.

In connection with the question of hours of work, I may refer briefly to two other reforms. Section 21 of the present Act prescribes that work must be stopped at intervals of not less than six hours for a period of not less than half an hour. Experience shows that a rest period of half an hour is not sufficient for rest and refreshment, and we have raised it to one hour. But we do not object to the suggestion of the Joint Committee that if the workers themselves so desire the rest period may be taken in two intervals of half an hour each.

The Joint Committee has made another change in regard to the weekly holiday. I do not propose to enter into detail. But the effect is that every workman will secure 52 holidays in the year, and that no worker will go without a holiday for more than ten days at a time. We accept the solution proposed.

I come now, Sir, to the important provisions of the Bill which deal with the protection of child labour. In the first place, by clause 14 of the Bill, we raise the minimum age of child labour from 9 to 12. This reform has already been accepted by the Council, and I need not refer further to it. By the same clause we restrict child labour to 6 hours a day. And, finally, by clause 2 (a) of the Bill we raise the upper limit of age for half-timers from 14 to 15.

This last change has been the subject of some controversy and debate, but I may state the issues very shortly. On the one side it is said that in this proposal we are going beyond the prescriptions of the Washington Conference and the law in England. It is pointed out that in England childhood for the purpose of Factory law ceases at 14, and it is suggested that, in the interests of the boys and girls themselves, the law should be the same in India. It is suggested that it is unfair that between the ages of 14 and 15 they should be debarred from earning full wages. We admit, Sir, that we have gone beyond the recommendations of the Washington Conference, but we do not admit that we have gone beyond the law of England. If the law is amended as we propose, the effect will be that in India children between the ages of 12 and 15 will be allowed to work only half-time. In England children under 14 are not allowed to work at all in a factory. That is one point of difference. The second point of difference is, that in England the employment of young persons between the ages of 14 and 18 is regulated by special rules and regulations. There is a special young persons class, and we have not thought it advisable to complicate this Act for ourselves and for employers by an innovation of this kind. Thus I claim, Sir, that the analogy between England and India in this matter is not a true analogy. For the rest I need only say that after due deliberation we consider that the upper limit of age for children should be raised to 15, because we feel that, in the climate and the physical conditions of India, it is unfair to ask a boy or



a girl of less than 15 years of age to work for as much as ten or even eleven hours a day. Low stature and lack of muscle are too often a characteristic of boys and girls of this age in India, and in the interests both of the health of the nation and of India's industrial efficiency, we feel that it is advisable to delay by one year the age at which a child is promoted to man's estate and becomes liable to a man's hours of work. Both sides quite sincerely base their case on the true interests of the child himself; the only difference of opinion lies on the point where those true interests lie. Our view in the matter has been accepted by the other House, and I am confident that it will be endorsed by this Council also.

I need not refer in detail to other provisions which have been made in the Bill for the protection of child labour, but there is one point which I must mention. Section 46 of the Act prescribes that—

‘if a child over the age of 6 years is found inside any room or part of a factory in which room or part children are employed and in which any manufacturing process or work incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory.’

Experience has proved that the safeguard which this section was intended to afford is ineffective. The manager who wishes to evade the law has little difficulty, on the approach of an Inspector, in sending the children he is employing unlawfully into the factory yard, and it is thus impossible for the Inspector to prove an offence against section 46. In the Bill as introduced, therefore, we proposed to tighten up the section so as to create a presumption that any child over 6 years of age found within the precincts of a factory was employed in that factory. But the sense of the other House was against us, and it was felt that we had gone too far in our efforts to protect the children. The Government of India accept the decision and do not propose to press further their original proposal.

I am afraid, Sir, that I have already detained the Council for a considerable time. I have now explained the main features of the Bill, and without going further into detail, I will commend the Bill to the sympathetic consideration of the Council.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, I rise to support the second reading of this Bill, not because I think that it is an ideal Bill even for our present circumstances, but because I think that it is a move in the right direction, and, on the whole, it is a fairly great advance on the Act of 1911. More than forty years have passed, Sir, since the time that the first factory legislation was passed by the Government of India in 1881. At that time the Local Governments—I am not sure if the Government of India did so—under the influence of capitalists did not approve of the idea of legislation on this subject, and the capitalists themselves were strongly opposed to any factory legislation. Even a liberal Viceroy like Lord Ripon had to give in on a most important point, that is, the reduction of the minimum age of a child from 8 to 7, to win the support of the Bengal representatives. He said very clearly that he was very sorry that he had to do it. He put it on record thus:—

‘I shall always regret that I yielded to Sir A. Eden's strong wish that the minimum age for the employment of a child should be reduced from 8 to 7. I was quite wrong, and I wish to leave my opinion on that point on record.’

He did it, Sir, because the Lieutenant-Governor of Bengal and others under the influence of capitalists were strongly opposed to any factory legislation, and it was as a compromise that this was done. Ten years

[Mr. Lalubhai Samaldas.]

passed, and in 1891 another Factory Act was passed. When that Act was passed, the then Viceroy, Lord Lansdowne, thought that that was the final word and nothing more would be necessary to do as regards factory legislation. He said:—

‘We believe that the effect of our measure will be to place factory labour in India on a proper footing and our Bill will be accepted here and at Home not as a mere prelude to still further restrictions, but as a settlement as final as any settlement of such a question can be.’

Thirty years have passed, Sir, since then, and during this period there have been vast changes. Labour has found its place, labour knows how to combine, and having combined it knows how it can get what it wants. Capitalists too, I believe, have grown wiser. They know that for their self-interest, if not on higher grounds, they must work in unison with labour, and Government also, I believe, have grown wiser. Government have now realised that it is not the capitalists alone who are to be reckoned with, but labour also, and they feel that it is its duty to protect labour against any exploitation by capitalists. This is the present condition of affairs, and it is in these times that this measure has been brought forward.

Another change was undertaken in factory legislation in supersession of the previous Acts after making inquiries into local conditions in India. But now India has taken her place in the International Councils of the world, and as such she has to carry out her responsibility as regards labour as it is understood in the International Councils, and this Bill, as my Honourable Friend, Mr. Innes, has just explained, is the practical outcome of the recommendations of the Washington Conference. Our representatives there made a mark, and I am only sorry that Sir Alexander Murray is not here to-day who would have put the case much more strongly for labour—I hope he would have done so—than I can.

The Joint Committee considered the case on its merits, and Government as represented by the Honourable Mr. Chatterjee,—I hope I am not giving out any secrets when I say—usually supported labour against capital. He tried to be fair to both, but it was never the capitalist who got a good word from him, but it was always the labourer, and I congratulate him for this.

Now, Sir, in this year of Grace, 1922, I do not think anybody can say, either in this House or outside this House, what Lord Lansdowne said in 1891 that we have reached the final stage as regards factory legislation. I think, Sir, that in the years to come, labour problems will be the most important problems. They will loom large on the horizon, perhaps much larger than even political problems, and it will be the duty both of Government and of capitalists to combine and see that labour gets its due. It is not merely a question of keeping labour well paid, but of recognising that they as human beings have as much right to all the good things of the world as the capitalists, or, as I was going to say, the sun-dried bureaucrats. They ought to have equal opportunities—as good opportunities—as anybody else. I think that if Government and the capitalists do not do their duty to them, the time may come when we may be faced with the same problems that the West has to go through. We must learn our lessons from the West. There capital and labour have unfortunately been fighting. Is it not possible that here capital and labour might combine,

co-operate and work for the good of the country? If that is done, I think India can very well take her place, not only in the labour conferences, but in all international conferences.

With these words, Sir, I strongly support the second reading of this Bill.

The HONOURABLE MR. V. G. KALE: Sir, I stand to accord my cordial support to the Bill. The position of labour in India has been considerably strengthened by the influences which have been brought to bear upon the solution of labour problems by events which have occurred outside this country. I am afraid labour's claims would not have received the strong support which they have received at the hands of Government and others had it not been for the fact that labour has come to occupy a position of very great importance in the solution of international problems. It is the recognition of the importance of labour even by the League of Nations and the recognition of the contribution that labour has made to the successful prosecution of the war, which has facilitated the task of the reformer in India in improving the position of labour. Capitalists would certainly have been able otherwise to put up a stronger fight against the claims of labour than they have acutally been able to do. But events occurring outside and inside the country have proved too strong for them.

Government and public opinion have been as it were leagued against them, and consequently they felt that their cry would be a cry in the wilderness. I say it is a fortunate circumstance for labour that this situation has been created by events that have taken place outside, but the reform here has come none too soon. The number of factory labourers in this country is indeed comparatively small. Compared with the total number of labourers engaged in different industries, including agriculture, workers in factories are few, but India has to take advantage of the fortunate circumstances in which she is placed. As my Honourable Friend, Mr. Lalubhai Samaldas has just pointed out, we are in a position to learn lessons from the experience of the West. We need not in this country go through the same struggles and troubles as the West, and we can here adopt, in the course of a single generation, reforms which it took a country like England, for example, nearly two or three generations. The questions relating to labour which require solution at the hands of Government and the public are those relating to hours of work, protection of children and women, and improved conditions of work in factories. On all these points the Bill before the Council has made important steps in advance. With regard to the age of children, there have been great differences of opinion, but I think the actual amendment that has been introduced into the Bill is absolutely necessary. Even with regard to the upward limit of the age of children, namely, 15 years, about which capital was very strong in not accepting it, I think we ought to recognise that at this very time work in factories is always found to be injurious especially to children and to the younger generation. From the point of view, therefore, of national interests it is necessary that children and women should be properly protected. I am very glad to find, therefore, that this Bill has embodied provisions in this respect. Then with regard to the hours of work. Certainly the time is coming when a further claim to reduction of the hours of work will be put forward, but as it is, we must say that the limitation which has been imposed is for the time being satisfactory. We cannot help having a conflict between capital and labour in this country. We do undoubtedly

[Mr. V. G. Kale.]

want that, if possible, capital and labour should co-operate with each other and work in harmony, and much depends in this regard upon what capital is prepared to do. If capital performs its duties properly, if it takes a wide and liberal view of its duties to workmen and to the country generally, certainly the bitterness of the struggle which would otherwise take place would very largely be minimised. But labour certainly will put forward demands which capital will regard as very unreasonable. And if such a struggle takes place, as it is bound to, there will be strikes and strong labour organisations; and we must be prepared to legislate in view of all these developments. Our legislation must take into account the provisions which have been made in other countries in this respect. We are, therefore, proceeding on the whole along correct lines, and therefore I have great pleasure in according my support to this Bill.

The HONOURABLE MR. BHURGRI: Sir, my Honourable Friend Mr. Kale has anticipated me in many things which I wanted to say to this Council, but I feel that, before this Bill is passed, I must touch on one or two points. In the first place, I must congratulate Government and this House for having approved the age question on which we had some differences last year. The only other point on which I have got some doubts is the retention of section 46 without the modifications suggested by the Joint Committee. I am not blaming Government. I know my Honourable Friend the Member in charge of Industries and Commerce pressed that amendment in the Assembly and could not carry. But I still feel, Sir, that if you make a law and if you want that law to be enforced, then you must give proper means to your officers to enforce that law. But by retaining section 46 as a compromise, you actually leave the position where it was, namely, that you give a loophole to the factory owners to successfully evade the law, and still go on employing children of the prohibited age. For these children may easily be taken out at the time the Inspector comes, and then the Inspector cannot successfully prosecute them. I have thought it over whether I should not move an amendment to safeguard against this, but I thought I should not complicate matters, especially, in a matter of this sort of legislation in which my Honourable Friend is already having some difficulties. I will not increase his troubles by any such proposal at present, though I still believe that this compromise involves the result that factory owners and factory managers will still be free to evade the law against all vigilance of Factory Inspectors.

The HONOURABLE SIR ARTHUR FROMM: Sir, were my friend the Honourable Sir Alexander Murray here, I should leave it to him to support this Bill. For myself, I do not wish to detain the Council for any length of time. Indeed, the words which I should have said in support of this Bill have already been uttered by the three previous speakers. We welcome this Bill as a protection to, and for the good of, labour in this country, which we, employers of labour, have at heart.

There is one note I should like to sound, however, and that is, that I would appeal to those champions of labour, or leaders of labour, to try and keep labour on the right lines. Labour does not always keep on the right lines in their demands on the employers, and if the leaders of labour would only bear this in mind and sometimes keep the fact before them that there are two sides to a question, we in Bombay should have very much less trouble with labour than we have had in the past. I have not got very much more to say about this, but I think perhaps it would interest the

Council to give you a very short example of what I wish to bring before them in a matter which has come up to me here. I am connected with some works in Bombay. At busy times we perhaps employ something like 8,000 or 9,000 men. Unfortunately the number is very much reduced now. It has been our practice—I cannot guarantee the practice will continue—in past years that when Christmas Day has fallen on a week day, we shut down our works. We shut down our works for the important Christmas festival, but we have recognized that we were keeping labour out of a day's pay, and we have paid them for that day though no work has been done. Last Christmas Day fell on a Sunday, and we have had an application for a day's pay! Well, I cannot see that our labour on this occasion has any claim for a day's pay. They are not losing any pay since Christmas Day fell on a Sunday. Still, I do not altogether complain of their application. Labour is not very literate, and I do not blame them for trying it on, but what I do complain is, that one of their leaders has written to me and pressed this unreasonable claim. It is in cases like this where I appeal to leaders of labour to keep the men on the right lines and not to put forward preposterous claims on their employers. I am all for improved conditions of labour in this country: it is good for the men, it is good for their work. I heartily support this Bill.

THE HONOURABLE MR. C. A. INNES: Sir, the reception which this Bill has received in Council has been so generous that there is very little left for me to say. With reference to what the Honourable Mr. Samaldas and the Honourable Mr. Kale said, I may say at once that we do not for a moment claim finality for the Bill. We recognize, as every one must recognize, that conditions must change in India. The Industries Department exists for the purpose of noting and studying those changes, and I have not the slightest doubt that periodically our Factories Act will be modified in order to suit conditions as, or even before, they change. The Honourable Mr. Samaldas referred to the attitude of a certain Honourable Member of Government in the Joint Committee. I was not in the Joint Committee myself and I am unable to say what happened. But this much I will say, the Government would be very ungrateful if I did not take this opportunity to-day of expressing our great obligations to employers of labour in this country. They have met us throughout in this difficult matter in the most reasonable spirit of compromise. They have helped us throughout not only in formulating our own views, but in the actual drafting of this Bill; and I am sure that we all regret the unavoidable absence from this Council to-day of Sir Alexander Murray, who has been our guide, philosopher and friend throughout. It only remains for me, Sir, before the Bill passes to its final stage, to congratulate the Indian Legislature in placing on the Statute-book in the first year of its existence a very important piece of social legislation. As I have said, Sir, we do not claim finality for this Bill; but I do claim, and I claim with confidence, that it marks a very real advance.

THE HONOURABLE THE PRESIDENT: The question is:—

'that the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be taken into consideration.'

The motion was adopted.

THE HONOURABLE MR. H. A. F. LINDSAY: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, my Honourable Friend Mr. Bhurgri referred to the dropping of the clause for amending section 46. I think it is necessary for me to reply to this portion of the debate, because the Honourable the Government Member perhaps does not see eye to eye with us in this matter. This question was brought up in the Joint Committee. I am sorry the Honourable Member was not a member of the Committee. If he had been he would have seen the justification for leaving section 46 as it was. What happened there was this. We were told that there were cases where Factory Inspectors found that some Managers who employed children in their mills sent them out in the compound when the Factory Inspector came so that he might find them there. But, on the other hand, it was proved that there are mills—I will only quote one here, the Sholapur Mills belonging to Morarji Goculdas and Company—where the mill area is so great that it includes hospitals for in-patients, a dispensary, schools, gymnasium, play-grounds for sports, and so on. Now if the clause amending section 46 of the existing Act had been kept as it was, all the social welfare activities would have to be stopped or hundreds of children playing in the play-ground would be hauled up. It is true that two alternatives were proposed by some of the Members either that section 46 should be kept as it is or the definition of “precincts,” as in the English Act, should be incorporated in the amending Bill. My Honourable Friend, Mr. Bhurgri, asks a question as to how many mills there are of this kind. If the Honourable Mr. Bhurgri will be good enough to go round the mills and see things for himself (for instance, the Currimbhoy Institute for the Currimbhoy group of mills or the Tata social welfare institute for the mills), he will find that the employers are not exploiters, but are prepared to help the labourers to lead a better life economically and socially. In the beginning I did say that labour should be supported. But that did not mean that one ought to be unfair to the employers. Employers know the interests of their labourers much better than outsiders do. If my friend, the Honourable Mr. Bhurgri and Professor Kale took the same trouble that my friend Mr. Joshi does for ameliorating the condition of the labourers and work with a view to get the support of the mill-owners and get money from them, then they would see that the mill-owners do not want to exploit or do harm to employees. They do realise that the welfare of the industry lies in the well-being of the labourers. It may be said that it is highest selfishness. I do not object to it. It may be so. Still to cry down capital without knowing the labour conditions is not fair, especially just now, because I do not see here, except my friend the Honourable Sir Arthur Froom, any large employer of labour. If my friend, Sir Alexander Murray, or Sir Maneckjee Dadabhoy, or Sir Dinshaw Wacha, had been here, they would have been able to reply much more strongly than I can. I say, Sir, it is not fair to those who employ labour to cry them down in season and out of season. The employers of labour do realise that, when they make better profits, labour should be given its share. I would not be surprised if somebody came here and said that labour should be given a share in the profits also. That time is still far away and has not come even in England. We want to have co-operation between capital and labour in this country, and I hope my friends, the Honourable Mr. Bhurgri and the Honourable Mr. Kale, will use all their influence to bring labour and capital together. With these words I support the motion.

The HONOURABLE MR. BHURGRI: I may at once assure my Honourable Friend, Mr. Lalubhai Samaldas, that it was far from my thought to

run down the capitalist. As a matter of fact, I do join in the remarks which my Honourable Friend, Mr. Innes, made that in piloting through this Bill, Government had the active support of some of the capitalists and labour employers. I appreciate that and I am the last man to run them down. I may tell my friend, the Honourable Mr. Samaldas, that I also am, though on a very small scale, a factory owner, and, therefore, know the tricks of the trade.

My complaint is that, when you make a law that a certain age should be fixed and that nobody must employ children under that age in any factory, then I say the logical conclusion of that is that the Legislature should make provision to give enough power to the Executive to enforce the law. That is not done by this Bill. On the contrary, by the compromise arrived at in the other House and which my Honourable Friend Mr. Innes, was compelled to accept at the point of the bayonet has left loopholes for the successful evasion of the law.

My Honourable Friend, Mr. Lalubhai Samaldas, gave an example, that of the Sholapur mills, where he said that hospitals, play-grounds, schools and other buildings are within the same compound as the factories. I ask my friend, is it not possible to draw some demarcation line between the factory area proper and other institutions attached to it? That, I believe, can very easily be done. What I objected to was that, while you all agree that children under a certain age should not be employed by factory owners, you are not willing to give power to the Executive to see that the law is enforced. I would have moved an amendment, but I did not want to make complications for my friends who are piloting this Bill through the House. Therefore, I refrained from doing so; but I feel it my duty to express my views on the subject. I never intended to say anything to annoy my friend the Honourable Mr. Lalubhai Samaldas or any other capitalist.

THE HONOURABLE MR. LALUBHAI SAMALDAS: May I rise to a personal explanation? If the Honourable Mr. Bhurgrī will refer to the Minutes he will see that it was suggested that the definition of "precincts," as in the English Act, should be introduced so that what he has suggested could have been done if the Government had so desired.

THE HONOURABLE THE PRESIDENT: The question is—

that the Bill further to amend the Indian Factories Act, 1911, as passed by the Legislative Assembly, be passed.

The motion was adopted.

#### ELECTRIC HEATERS FOR COUNCIL CHAMBER.

THE HONOURABLE SIR ARTHUR FROMM: Sir, before you close the proceedings of this morning, might I bring before you a question which is, I think, of considerable interest to the Members of this House. To-day we have passed an Electricity Bill, and I should very much like to know whether some of it could not be introduced into this Chamber in the shape of electric heaters. I find this House extremely cold and damp, and I think if, with some ingenuity, say a dozen electric heaters could be placed round the room, we should be enabled to conduct our business with more warmth and in greater comfort.

THE HONOURABLE THE PRESIDENT: I think the Honourable Sir Arthur Fromm has drawn attention to a point of great interest to all of us. I also

[The President.]

am not immune from human frailty. I also feel the cold. I will at once bring the matter to the notice of those who are responsible, but I am not hopeful of a successful issue, because I have already drawn attention to the matter without eliciting any action.

Before I adjourn the Council, I should like to ask non-official Members to meet me in the large Committee Room here in ten minutes time, if they will be so good.

The Council then adjourned till Wednesday, the 25th January, at eleven of the Clock.