

Tuesday, 14th August, 1934

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1934

(8th August to 6th September, 1934)

EIGHTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1934



PUBLISHED BY MANAGER OF PUBLICATIONS, DELHI.
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI.
1935.

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COUNCIL OF STATE.

Tuesday, 14th August, 1934.

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

QUESTIONS AND ANSWERS.

PROGRESS MADE IN RECRUITING INDIANS TO THE CYPHER BUREAU.

87. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please state what progress has been made in the matter of recruiting Indians to the Cypher Bureau?

THE HONOURABLE MR. R. E. L. WINGATE: I would refer the Honourable Member to part (d) of the reply to the Honourable Mr. Jagadish Chandra Banerjee on the 8th February, 1934. The new codes are not yet ready for use.

ACTION TAKEN ON THE ECONOMIC ENQUIRY REPORT.

88. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please state what action they have taken or intend to take on the Economic Enquiry Report made by Professor Bowley and Mr. Robertson?

THE HONOURABLE SIR ALAN PARSONS: The Report is under departmental consideration.

ANTI-INDIAN LEGISLATION IN ZANZIBAR.

• 89. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please lay on the table the correspondence that may have passed between them, the Secretary of State for India and the Zanzibar Government as regards legislation recently undertaken by the Zanzibar Government which is calculated to affect Indian interests?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: The attention of the Honourable Member is invited to the reply given by me to the Honourable Pandit Prakash Narain Sapru's question No. 72 on the 13th August, 1934.

ACTION TAKEN IN REDUCING EXPENDITURE ON INDIAN DEFENCE AND INDIANIZATION OF THE DEFENCE FORCES.

90. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please lay on the table a detailed statement showing what action has been taken with a view (1) to reducing expenditure on Indian defence and (2) to furthering the Indianisation of the defensive forces of India?

THE HONOURABLE MR. M. G. HALLETT (on behalf of His Excellency the Commander-in-Chief): The statements are being prepared and will be laid on the table at an early date.

PAY OF NEW ENTRANTS TO THE INDIAN CIVIL SERVICE AND OTHER ALL-INDIA SERVICES.

91. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state what progress, if any, has been made in the matter of reducing the scales of pay of new entrants into the Indian Civil Service and other All-India Services?

THE HONOURABLE MR. M. G. HALLETT: The question is still under discussion between the Secretary of State and the Government of India.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU: When do Government hope to be in a position to make a statement on the subject?

THE HONOURABLE MR. M. G. HALLETT: I regret that I cannot be responsible for the time that the Secretary of State will take for deciding the question. No doubt he will expedite the decision as much as possible.

ANTI-INDIAN LEGISLATION IN MOZAMBIQUE.

92. THE HONOURABLE SIR PHIROZE SETHNA: (a) Will Government state if the report published by the Karachi Indian Merchants' Chamber is correct that the Government of Mozambique in Portuguese East Africa have recently passed legislation whereby (i) Indian settlers who wish to re-enter the colony will be only allowed to do so if they return as employees of their previous masters and (ii) that every Indian employer must employ two Portuguese for one Indian national employed by him.

(b) If the reply to (a) is in the affirmative will Government state what action they have taken or will take to prevent such restrictions against Indians in Portuguese East Africa?

THE HONOURABLE MR. R. E. L. WINGATE: (a) Under a law enacted by the Portuguese Government of the Colony of Mozambique in 1932 as recently interpreted by the Governor General of that Colony it appears that British subjects will be subjected to these restrictions.

(b) The Secretary of State for India was asked on the 15th April, 1934 by telegram that the strongest possible representations should be made to the Portuguese Government and they should be requested to exempt Indians from the operations of the law on the ground that the large number of Portuguese subjects in India are subject to no restrictions in this country. A communication has been made by His Majesty's Ambassador at Lisbon to the Portuguese Government and their reply is awaited.

IMPOSITION OF HIGH IMPORT DUTIES BY THE GOVERNMENT OF CEYLON ON CERTAIN COMMODITIES.

93. THE HONOURABLE SIR PHIROZE SETHNA: (a) Has the attention of Government been drawn to a recent statement in the Press that the Government of Ceylon have imposed prohibitive duties on the imports of ghee, vegetables, eggs, tamarind, etc., from India?

(b) Have they received communications from any commercial bodies complaining against this legislation?

(c) What steps do Government propose to take to safeguard the interests of this country and of Indians resident in Ceylon in this connection ?

• THE HONOURABLE MR. T. A. STEWART : (a) Yes, Sir. Tamarind is not, however, one of the items on which these duties have been imposed.

(b) Yes, Sir.

• (c) The matter is receiving the careful consideration of the Government of India.

PUBLICATION OF THE REPORT ON THE COCOANUT INDUSTRY.

94. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state when the report of the officer appointed by the Imperial Council of Agricultural Research regarding the condition of the coccoanut and copra industry in Southern India, will be published ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Subject to the approval of the Advisory Board of the Imperial Council of Agricultural Research the report will be published soon after its meeting on the 3rd September.

PUBLICATION OF THE REPORT OF THE TARIFF BOARD ON THE GLASS INDUSTRY.

95. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state when the Report of the Tariff Board regarding the Glass industry will be published ?

THE HONOURABLE MR. T. A. STEWART : The Tariff Board's Report on the Glass Industry is still under the consideration of Government and I am unable to say when it will be published.

NUMBER OF INDIANS AND NON-INDIANS EMPLOYED AS OFFICERS, ETC., IN THE INDIA STORE DEPARTMENT, LONDON.

• 96. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state the number of Indians on the staff of the India Store Department, London, as officers and as ordinary employees ; and the number of non-Indians as officers and ordinary employees ?

THE HONOURABLE MR. D. G. MITCHELL : As far as I am aware, the numbers of Indians at present employed as officers and subordinates on the staff of the India Store Department, London, excluding industrials and menials, are four and seven, respectively. The corresponding numbers of Europeans are 109 and 76, respectively.

PUBLICATION OF THE REPORT ON THE PROJECT OF THE BOMBAY-SIND RAILWAY.

97. THE HONOURABLE SIR PHIROZE SETHNA : (a) Will Government state whether they have appointed any officer to report on the project of the Bombay-Sind Railway and, if so, when will the report of the officer be published ?

(b) Do Government propose to consult representative commercial bodies before they take any final decisions regarding the above project ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) The report of the officer has been received and is under the consideration of the Railway Board

in consultation with the North Western Railway and the Bombay, Baroda and Central India Railway Administrations. Government do not propose to publish the report.

(b) As soon as their investigations are complete, Government will consider in what form the results should be made public to elicit the opinion of all interested in the scheme.

SHORT NOTICE QUESTION.

THE HONOURABLE THE PRESIDENT: There is a short notice question and as Government have no objection, I am prepared to allow it.

ILLNESS OF MRS. KAMALA NEHRU, WIFE OF PANDIT JAWAHARLAL NEHRU.

98. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (1) Has the attention of Government been drawn to a telegram published in the *Hindustan Times*, dated the 8th August, 1934, intimating the serious illness of Mrs. Kamala Nehru, wife of Pandit Jawaharlal Nehru?

(2) Is Government aware that she is suffering from pleurisy and running a temperature of 104 degrees?

(3) Will Government please state whether they intend to release Pandit Jawaharlal Nehru so as to give him a chance to attend his wife?

THE HONOURABLE MR. M. G. HALLETT: (1) and (2). Government are aware that Mrs. Kamala Nehru, wife of Pandit Jawaharlal Nehru, is dangerously ill.

(3) As stated by the Honourable the Home Member in another place yesterday, the question is really one for the Local Government to decide. But the Government are in communication with the Government of the United Provinces on the subject and have heard from them that Pandit Jawaharlal Nehru has been temporarily released on his arrival at Allahabad in order to be with his wife.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: How long will he be kept out of jail?

THE HONOURABLE MR. M. G. HALLETT: I am afraid I can give no answer on that point.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Will the Government see the advisability of keeping Pandit Jawaharlal Nehru free till Mrs. Kamala Nehru is restored to normal health?

THE HONOURABLE MR. M. G. HALLETT: As I have already said, the matter is primarily a matter for the Local Government of the United Provinces. I have no doubt they will give sympathetic consideration to the matter.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Was he released without the consent of the Government of India?

THE HONOURABLE MR. M. G. HALLETT: Yes.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Will the Government advise the Government of the United Provinces to keep him free till Mrs. Kamala Nehru is restored to normal health ?

THE HONOURABLE MR. M. G. HALLETT : That is a hypothetical proposition. I cannot give any undertaking on that point.

CONGRATULATIONS TO THE HONOURABLE SIR FRANK NOYCE ON THE HONOUR CONFERRED ON HIM.

THE HONOURABLE THE PRESIDENT : Honourable Members, I feel confident that you would like me to take this opportunity of welcoming Sir Frank Noyce here today, and to offer him the sincere and heartfelt congratulations of the Council of State on his elevation to the Knight Commandership of the Exalted Order of the Star of India. (Applause.) I particularly refer to this matter as we can claim Sir Frank Noyce as one of us. He was in 1931 a Member of this Council and though he remained here with us for a few months only, he made himself extremely popular with the Members of this Council. (Applause.) His good nature, temperament and the manner in which in cases of opposition he took up his standpoint, are all known to us and he invariably behaved so tactfully that he really captured the hearts of the Members of the Council. (Applause.) Later on he became for a short period the Leader of this House and during that time also he conducted the duties of his office as Leader in a way which inspired great respect and confidence on the part of Members of this Council. Sir Frank Noyce is certainly a distinguished member of the Indian Civil Service, but I make myself bold to assert that he stands in the front rank of those eminent civilians who have left their mark in this country's history. (Applause.) His services have been always requisitioned by Government on all important occasions and he has presided over numerous committees and conferences during the last ten years. We are fully aware of the great services he has rendered during the last few years. If it is at all necessary to enumerate his special services, I may specially mention his appointment as Collector and President for the purpose of the Cotton Cloth Act, and also later on he was President of the Indian Sugar Committee. He was also put on special duty with the Government of Burma and he was also on special duty under the High Commissioner for India from 1st July, 1922 to 16th March, 1923. His services were also placed at the disposal of the Government of India, Department of Commerce, as President of the Coal Committee, in which capacity he rendered very useful service to the country. His services were likewise placed at the disposal of the Government of India, Commerce Department, as officiating Member, Tariff Board, and he was also President of the Cotton Textile Industry Enquiry and, as you all know, that Report, which many of you have read, will remain a monumental work in the history of the textile industry. He has still some time to serve this country and I have no doubt that higher honours and greater possibilities of work are in store for him. Sir Frank, I convey to you the sincere and heartfelt congratulations of this Council on your elevation.

THE HONOURABLE SIR FRANK NOYCE (Industries and Labour Member) : Sir, I very deeply appreciate the kind congratulations you have been good

[Sir Frank Noyce.]

enough to give me on the Knight Commandership of the Order of the Star of India which has recently been conferred upon me and the kind way in which your remarks have been received by the House. I have the very pleasant recollections of the two short periods during which I have had the privilege of being a Member of this House,—in 1931 when I was Secretary in the Education, Health and Lands Department and represented that Department here and the year before last when I had the great honour of leading this House for a very brief period. I can only say that my reappearances here, infrequent as they are, are always a very pleasant interlude in my labours and I thank the House most warmly for the kind reception it always gives me when I come here and the favourable way in which it looks upon the measures which my Department places before it. I thank you once again, Sir, and the House for your very great kindness.

MECHANICAL LIGHTERS (EXCISE DUTY) BILL—*contd.*

THE HONOURABLE THE PRESIDENT: The Council will now proceed with the further consideration of the Mechanical Lighters (Excise Duty) Bill.

The Question is :

“That clause 2 stand part of the Bill.”

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal: Non-Muhammadan): Sir, the amendment that stands in my name runs as follows :

“That for sub-clause (b) of clause 2, the following be substituted, namely :

‘Mechanical lighter means a lighter or any other article for the production of a flame, spark or incandescence and which in use can replace matches automatic or non-automatic, with gasoline or benzine, mechanical, chemical or electrical or of any other class.’”

Sir, when the Bill was first brought before the other House it was pointed out by Mr. Bhupat Singh when he moved for the circulation of the Bill that the original definition of mechanical lighters was most defective as various kinds of toys emitting sparks came under the purview of that definition. The same view was also taken by most of the officials whose opinions have been received on the Bill. In order to meet that point, the Select Committee which was appointed by the other House, amended the definition which is a great improvement no doubt on the original definition but, Sir, the word “portable” used in the definition is most ambiguous in so far that it is not clear whether lighters imported not of a shape and size to be used as a substitute for matches but which may be imported in future of a bigger size as a substitute for ordinary kerosene lamps used in village homes would come under the purview of the definition containing the word “portable.” At present we find mechanical lighters imported into the country in the shape of pencils or in the size of ordinary match boxes. If tomorrow we find the importation of a large number of lighters imported in the shape and size of ordinary electric torches with the device of a flint and a stone to light the wick as a substitute for the ordinary village kerosene lamps would they come under the definition of “portable” or not? In order to avoid all these troubles I think that definition as contained

in a similar legislation in one of the South American Republics where a heavy duty on matches is in force may better suit us than the corresponding definition in the British Customs Regulations from where our definition appears to have been copied. When I gave notice of the amendment I did not do it with a motive to show my legal knowledge over that of the legal luminaries which adorn this House and the other. But I was only actuated by the desire of substituting some other suitable definition which would restrict the scope of mechanical lighters only when it comes into unfair competition with matches. Sir, when I was going through the opinions I found this very definition quoted by no less an authority and important body as the Chamber of Commerce, Bombay. To my mind there is no doubt that this definition as suggested by the Chamber of Commerce, Bombay, is a better substitute than the present definition as contained in the Bill. The proposed definition contains the words :

“ which in use can replace matches and therefore it restricts the scope of the definition to such lighters which would only replace matches but not others which may be used as a substitute for the kerosene lamps and ordinary electric torches ”.

I therefore move the amendment for the consideration of the House and for its acceptance.

THE HONOURABLE SIR ALAN PARSONS (Finance Secretary) : I am afraid I cannot advise the Council to accept the definition proposed by my Honourable friend for two good reasons. First, I am informed that by the inclusion in that amendment of the words “ or of any other class ” he will bring within the mischief of the Bill exactly those toys and primitive appliances which should not be included, and which it was quite definitely the intention of the other House to exclude, as was shown by the amendment to the Bill they made in Select Committee. Therefore, on a point of substance, his amendment must be rejected.

The second reason is that I am informed that the phrase used in his amendment “ which in use can replace matches ” does not give a criterion which could be easily applied ; for who can say whether any particular lighter, even though it might give a spark, was in use in the place of matches. Those are my two main grounds against the acceptance of this amendment. I do not think I entirely followed his objection to the use of the word “ portable ” in the definition as incorporated in the Bill but I think it is quite easy to decide whether any particular appliance is portable or not, and that the definition as it stands will certainly cover all those articles which we wish to have covered. Actually, the definition with the slight amendment made in the other House is, I understand, practically the definition which has been in use for a good many years in the United Kingdom and which I am told it has not been found in the least difficult to apply. For these reasons, I would ask my Honourable friend to withdraw his amendment. If he is not prepared to do so, I would ask the House to reject it.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That for sub-clause (b) of clause 2, the following be submitted, namely :

‘ Mechanical lighter means a lighter or any other article for the production of a flame, spark or incandescence and which in use can replace matches automatic or non-automatic, with gasoline or benzine, mechanical, chemical or electrical or of any other class ’.”

[Mr. President.]

The Question is :

“ That that amendment be made.”

The Motion was negatived.

Clause 2 was added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 3 stand part of the Bill.”

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central : Non-Muhammadan) : Sir, I beg to move :

“ That in clause 3, the words ‘ and eight annas ’ be omitted.”

Sir, I would not have moved this amendment if my proposal for the deletion of clauses 3, 4 and 5, which I made when the Bill was being considered yesterday, had been accepted by the Government. Sir, finding that these clauses are going to stand part of the Bill, I am moving this amendment for reduction of the duty from Rs. 1-8-0 to Re. 1. Honourable Members of this House are aware that when this Bill was introduced, the duty was kept at Rs. 2. But the Select Committee made a reduction of eight annas, and the Bill as it emerged from the Select Committee has kept the duty at Rs. 1-8-0. I consider this an exorbitant duty so far as the manufacture of mechanical lighters in India is concerned. I have no quarrel if the duty is to be Rs. 1-8-0 or even a little higher for those imported from foreign countries, but, as I said yesterday, no factories exist at present in India for the manufacture of mechanical lighters so I would urge upon the Government to reconsider the point and not to place impediments in the way of establishment of this factory in India. We all know that mechanical lighters are sold at different prices and they go as low as four to six annas. If the duty is fixed at Rs. 1-8-0, nobody will venture to establish any factory for their manufacture. Sir, yesterday my Honourable friend Sir Alan Parsons said that the Bill is to be regarded as a Bill for birth control. I was pleased to hear these remarks from him and would like to know whether he himself is practising what he said or whether the Government as a whole is going to practise birth control for which they seem to have a solicitude and on account of which they have introduced this Bill for the control of mechanical lighters in India. Sir, this is not my personal opinion alone. I am supported by Government officials placed in charge of high duties and responsibilities. Most of them have objected to the Bill on this very ground. They have explicitly stated that the duty is exorbitant.

Sir, I would draw the attention of the House to the remarks of the Commissioner, Assam Valley, who says :

“ I regard the rate of duty proposed as exorbitant ”.

The same thing has been pointed out by the Agent and General Manager, The Assam Railways and Trading Co., Ltd., who says :

“ While I cannot suggest that the subject is one which in any way affects this Company, it seems to me, in the absence of any specific explanation, that the proposed duty of Rs. 2 per lighter is unreasonably high and will tend to make prohibitive the prices of these undoubtedly very useful commodities. Would not a duty of Re. 0-8-0 per lighter serve the required purpose ? ”

He has gone as far as Re. 0-8-0 instead of Rs. 1-8-0, while I have contented myself with suggesting Re. 1.

The Nagpur Chamber of Commerce has also proposed that the duty be kept at eight annas. They say :

“The duty should be eight annas per lighter at the most”.

The Collector of Anantapur says :

“I have no remarks to offer on the Mechanical Lighters (Excise Duty) Bill except that Rs. 2 a lighter appears to be too high a duty, being probably much more than the cost of manufacture”.

The Collector of South Kanara says :

“I, however, consider that the duty of Rs. 2 per lighter seems to be very high in view of the sort of lighters which are now available. Some of these lighters cannot cost more than a few annas to make, since it is only necessary to obtain a spark which will ignite petrol vapour”.

Sir, the Government from which I come, namely, the United Provinces, have said :

“As regards the principle underlying the Bill, I am to point out that though it is essential to safeguard the interests of the match industry, the excise duty levied on mechanical lighters should not be so high as to prevent altogether the development of this new industry”.

The Upper India Chamber of Commerce have also said the same, and they have proposed to reduce the duty to Re. 1, which I have suggested in my amendment.

The Indian Chamber of Commerce, Lahore, says :

“This Committee have considered the various clauses of the Bill and they strongly protest against the imposition of a very high excise duty of Rs. 2 per each lighter as provided in clause 3 of the Bill. No doubt no industry of this type is in existence yet in India but to impose a high duty in anticipation is most objectionable. From this my Committee conclude that the Government of India are not in favour of starting this industry by Indians”.

and so on. The Collector of Kanara—

• THE HONOURABLE THE PRESIDENT : I think we have had enough of these quotations.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I will, with your permission, read one line only from opinions to show to the House that a large number of persons, both official and non-official, are of the same opinion.

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal : Nominated Non-Official) : You have only quoted one non-official opinion.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I am giving prominence to official opinion because it is most appealing to the Members on that side. Non-official opinion is valuable to this side alone.

The Collector of Kanara says :

“The duty of excise proposed at Rs. 2 per lighter is rather heavy. It could safely be halved without the slightest effect on the duty on matches”.

So he is also in favour of the duty being kept at Re. 1.

The Collector of Gurgaon says :

“Rs. 2 per lighter is, in my opinion, a very heavy duty. I should have thought that Re. 1 would have been ample”.

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

So, Sir, as so many officials are of the same opinion as that which I am expressing in this Council, I hope that, if Government is not prepared to value my humble opinion, they will pay due regard to the opinion of their own experienced officials and will accept the amendment that I have moved.

THE HONOURABLE SIR ALAN PARSONS: Sir, yesterday the House accepted the view which was laid before them by Government that it was desirable to protect the match industry and the revenue which Government will now derive from it by the imposition of an excise duty. The House would stultify itself if it now voted for an excise duty which would not fulfil those two purposes, and the sole question raised by my Honourable friend's amendment is whether Rs. 1-8-0 or Re. 1 will be sufficient to prevent the importation of mechanical lighters, and—

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: On a point of order, Sir. I never said anything about importation. So far as importation is concerned I said raise it to Rs. 2-8-0 or Rs. 3, anything you like; but so far as manufacture in India is concerned it should be reduced.

THE HONOURABLE SIR ALAN PARSONS: I must adhere to what I said. The effect of my Honourable friend's amendment would be to reduce not only, as he wishes to do, the excise duty, but also under the operation of the last clause of this Bill to reduce the import duty. I am not dealing with what he wishes to do but with the effect of what he is proposing to the House. As I say, we have to see that the actual duty in the Bill will be sufficient to fulfil those two purposes, the protection of the match industry and the protection of Government revenue. Now, I am giving away no secret if I tell the House that initially our experts on the Central Board of Revenue thought that a duty of Rs. 4 per mechanical lighter would be necessary for this purpose, and it was only after considerable discussion that they put forward a duty of Rs. 2. That duty has been lowered, under the Bill before the House to Rs. 1-8-0 as a result of a compromise arrived at in the Select Committee of the Legislative Assembly. And in agreeing to that compromise the Honourable Finance Member made it clear that he only did so because it is impossible at the moment to say exactly what the effect of the duty will be; but that he was himself doubtful whether Rs. 1-8-0 per mechanical lighter would be sufficient, and that it might eventually be necessary to come to the Legislature again to raise the duty. At the same time what is sauce for the goose is sauce for the gander; and Sir James Grigg said in another place that he was prepared to give an undertaking, which I repeat here, that if after this Bill has been in force for some time it is found that an excise duty of Rs. 1-8-0 is too high, Government would then be prepared to lower that duty. I must make it equally clear however that if on the other hand Rs. 1-8-0 is found to be too low, Government will come forward with a proposal to raise it. (*An Honourable Member*: "How will Government find that out when there are no factories in India?") Sir, I myself trust our experts

on the Central Board of Revenue to discover whether a duty is actually too high or too low.

THE HONOURABLE THE PRESIDENT: Amendment moved :

“ That in clause 3, the words ‘ and eight annas ’ be omitted ”,

The Question is :

• “ That that amendment be made.”

The Motion was negatived.

Clause 3 was added to the Bill.

Clauses 4 to 10 were added to the Bill.

Clauses 11 to 16 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR ALAN PARSONS: Sir, I move :

“ That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

REPEALING AND AMENDING BILL.

THE HONOURABLE MR. C. GOVINDAN NAIR (Government of India : Nominated Official) : Sir, I move :

“ That the Bill to amend certain enactments and to repeal certain other enactments, as passed by the Legislative Assembly, be taken into consideration.”

The Bill does not require any special words from me to commend it to the House. It is the usual Bill to bring the Statute-book up to date. Certain unnecessary provisions are deleted and obvious errors corrected.

• Sir, I move.

The Motion was adopted.

The First and Second Schedules were added to the Bill.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. C. GOVINDAN NAIR: Sir, I move :

“ That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

FACTORIES BILL.

THE HONOURABLE MR. D. G. MITCHELL (Industries and Labour Secretary) : Sir, I move :

“ That the Bill to consolidate and amend the law regulating labour in factories, as passed by the Legislative Assembly, be taken into consideration.”

Sir, this Bill has its origin in the Report of the Royal Commission on Labour which sat a few years ago. The recommendations on the subject-

[Mr. D. G. Mitchell.]

matter contained in this Bill were studied with great care and thoroughness in the Department of Industries and Labour and in that task the Department were fortunate in having the services of one of the keenest and most zealous members of the Royal Commission. As a result of the examination of the Report, a preliminary Bill was drafted by the Department and circulated widely for opinion, every care being taken that all the interests concerned should have ample opportunity to study the proposals contained in the draft Bill. The result was a most formidable mass of well-informed suggestion and acute criticism, which was again examined in the Department of Industries and Labour during the course of many laborious months. As a result, the substance of the proposed Bill was modified in many respects, important and unimportant, and the whole Bill was re-cast in a form more suited to its amplified provisions. The Bill as re-cast was further considered last year in Simla by a Conference attended by all the Chief Inspectors of Factories in India, who went through the Bill clause by clause with great care and proposed several further modifications, chiefly of a practical and administrative character. The Bill as again modified was then introduced in the Assembly and was referred to a Select Committee. The Select Committee in the course of some lengthy sittings gave the Bill very minute examination and modified it in many matters of detail and in several matters of substance. The Bill, as reported by the Select Committee, was further amended in its passage in the Lower House and the Bill as finally shaped by this prolonged milling process was finally agreed to by the Legislative Assembly, with only one dissident.

I now propose to occupy the time of the House for as short a period as possible with a brief outline of the contents of the Bill and a comparison of these contents with those of the existing Act. Chapter I is Preliminary and I need refer Honourable Members only to the definition of "factory" which will enable them, I think, to follow clearly the objects of the Bill. A factory means any premises including the precincts thereof whereon twenty or more workers are working—the key word here is twenty—and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on. I will not detain the House with any further comments on this preliminary chapter. Chapter II relates to the inspecting staff and contains administrative matters occurring in various places in the old Act which have been collected together and amplified; but it contains no point of principle on which I need dilate. Chapter III is a very important chapter relating to the health and safety of workers. The old Act contained 12 sections covering four small octavo pages; the Bill contains 21 clauses covering six large foolscap pages. This means that most of the existing powers in the Act have been amplified and they have been made more definite, and in particular the procedure of the Inspectors of Factories has been made more precise. As regards the new features incorporated in the chapter, I would refer in particular to the much greater powers of control over artificial humidification of large factories and the new power whereby an Inspector may require the manager of the factory to provide some cooling device if it appears that the installation of the cooling device will not involve an incommensurate amount of expenditure. One of the most important of

the new provisions is contained in clause 33 which gives power to make rules for various matters—for four matters. They are a power to require the provision of shelters for workmen during their rest periods; a power to require means to be provided for small children, so that they may not get into mischief by running about in the factory itself; a power to require certificates of stability in the case of large factory buildings; and a very important power to declare the nature of what are called hazardous operations and to secure the protection of all workmen engaged in these operations.

I now come to Chapter IV, which is the most important chapter in the Bill and has certainly been the most controversial. It relates to restrictions on the working hours. I may give the gist in a few words. The old Act provided for a maximum of 11 hours a day, a maximum of 60 hours a week and a weekly holiday. The new Bill provides for a maximum of 10 hours a day which may not be spread over a period longer than 19 hours, for a maximum of 54 hours a week, and, as before, for a weekly holiday. To this general provision, however, there are two very important exceptions. The first relates to factories wherein the nature of the process carried on is such that it must be carried on continuously throughout the 24 hours. In such factories a maximum of 56 hours a week is permitted. Again in seasonal factories,—which I might explain very roughly as being factories which work only during a season which is not greater than about half the year,—in such factories workers may work for 11 hours a day and for 60 hours a week. There are many important additional features in this chapter compared to the corresponding provisions of the old Act, but I would refer only to two. The first is the very important feature of overtime. Under the present Act workmen earn overtime at the rate of time and a quarter only, after they have worked for 60 hours. The Bill proposes that they should get time and a half in any factory if they work for more than 60 hours a week. It also proposes that in a non-seasonal factory, which works for the whole year or practically the whole year, they will get time and a half for any day on which they work for more than 10 hours and also in non-seasonal factories they will get time and a quarter if they work beyond the normal 54 or 56 hours up to 60 hours a week; beyond 60 hours they get time and a half. A further most important feature as regards general policy is contained in the new clauses relating to the power to grant exemptions from the various restrictions contained in the chapter. These exemption provisions have now been worked out in much greater detail, and an earnest attempt has been made to define the principles, and thereby to confine the cases, in which exemptions may be granted.

The next chapter, Sir,—Chapter V,—relates to adolescents and children. This chapter contains various provisions which are scattered through the present Act, which have been collected together, modified and amplified. I may mention, to refresh the memory of Honourable Members, that a child is defined as a person who has not attained the age of 15, and an adolescent is a person who has attained the age of 15 but has not attained the Age of 17. As in the old Bill no child under 12 whatsoever is allowed to work in a factory. As regards children the old Act allowed them to work for six hours a day. The Bill provides for a maximum of five hours a day which may not be spread over a period greater than 7½ hours. A child, before it may work in a factory

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at all, must obtain a certificate of fitness and must carry about with it a token giving a reference to that certificate. The adolescents form a new class which is not mentioned in the present Act. They are required to get special medical certificates certifying that they are physically fit to perform a full day's work. If they have that certificate and carry a token giving reference to it, they are treated on exactly the same footing as adults. If, however, they are unable to get that certificate they are treated in all respects as children.

I come now to the last chapter on which I wish to make a few remarks,—that is Chapter VI, dealing with penalties. In this chapter the old standard fine of Rs. 500 for major offences, particularly offences committed by managers and occupiers of factories, has been retained; but a new feature has been added, in that for subsequent offences higher punishments may be inflicted; and a still more novel feature is that for second or third offences a minimum fine shall be imposed of Rs. 100 and Rs. 250, respectively.

In conclusion, Sir, the Bill represents a compromise. It does not go so far as some of the recommendations contained in the Report of the Royal Commission and it does not go so far as some of the more earnest reformers would like to go but in its present form it has been accepted as a considerable step forward by all the interests concerned. As I have already said it was passed in the lower House with only one dissentient and I recommend it with the fullest confidence to the consideration of this House.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras : Nominated Non-Official): Sir, I should like to make one or two general observations on the Bill before us. The Bill is fairly comprehensive in its scope and embodies many important recommendations of the Royal Commission on Labour. It is calculated to ameliorate the conditions of labour and to promote the health and welfare of labourers and their children. It is quite clear from the provisions of the Bill that substantial improvement will be secured in these directions and it is gratifying to learn that the Bill has won the general approval of employers and labourers and of the general public. I think the Government and in particular the Honourable Member in charge of Industries, whom notwithstanding your felicitous references to him this morning, Sir, we from Madras claim as our own, may be heartily congratulated on bringing forward this beneficent measure. But there is one matter, an important matter, to the omission or non-inclusion of which in the Bill I would beg to invite the attention of the House. The Report of the Royal Commission, which I think will be the standard work on Indian labour for a long time to come and which has provided the material for a good part of this Bill, contains a large number of very important recommendations. These recommendations derive particular value from the fact that they were made by persons specially competent to deal with the questions at issue and after a very thorough and impartial investigation of every aspect of the subject. Unless, therefore, there is some convincing reason to the contrary, they should in my humble opinion be accepted by the Government and implemented by them. Now, we all know that industrial labour in this country is very illiterate. Education and efficiency are closely related and it will be readily granted that until labour becomes educated it will remain inefficient and at the mercy of agitators and

exploiters. It is therefore quite as much in the interests of employers as of labourers themselves to ensure that educational facilities are provided for labourers and their children. Now, the Royal Commission considered education in relation to labour in all its important aspects—as primary education, as technical education, and as adult education, and it clearly expressed the view that the education of labour should receive special attention. What action the Government has taken on this recommendation of the Commission or what it proposes to take I do not know. Speaking as an educationist, I would have welcomed in this Bill some provision, either in the form of a specific clause or included in the scope of the rules to be made later, by which employers would be obliged, either separately or jointly, to provide or to contribute to the provision of adequate educational facilities for the workers and their children, and if such a procedure was found impracticable I would have welcomed a provision by which facilities would be provided in some other way. But I find no such provision in this Bill. I must, however, frankly admit that I am not very much surprised at this because I can well imagine that there are considerations which would make the inclusion of such a provision perhaps difficult. For one thing, education is a provincial subject and it may be argued that legislation on that matter, if at all necessary, should fall within the purview of the Provincial Governments. For another thing, illiteracy in this country is very widespread and the problem of its speedy removal is so immense that it has so far baffled the best efforts of our Governments. It may seem therefore rather premature, if not invidious, to provide special facilities for the education of a particular, limited, class of pupils. It may also seem unfair and unreasonable to impose a financial burden upon employers for the education of their employees. As I say, I can understand that there are considerations which should be borne in mind when introducing a specific clause for educational purposes in a Bill of this kind. Whether these or any other considerations weighed with the Government when dealing with this matter I do not know. All that I am concerned with at the moment is to express the hope that the recommendation of the Royal Commission on the subject of education will receive the full consideration of the Government and that it will take prompt action either by legislative enactment if that is considered necessary or by administrative action if that is considered sufficient, to implement the recommendation of the Commission. In this connection, I venture to bespeak the good offices of the Honourable the Leader of the House, as it is a subject on which he is so vitally interested.

12 NOON.

With these few remarks, Sir, I cordially support the Bill which is before us.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern : Non-Muhammadan) : Sir, I welcome this Bill as it is admittedly a progressive measure. The legislation before us, Sir, is a great improvement on existing conditions and the Government of India generally and my Honourable friend Sir Frank Noyce, whom I am glad to find present in this House today, particularly deserve to be congratulated for promoting a measure of this character.

There are two criticisms mainly that I have heard offered against the measure outside this House. The one is that the Bill has touched only some

[Rai Bahadur Lala Jagdish Prasad.]

aspects of the problem outlined by the Labour Commission and that there are other suggestions of that body which have not yet been given effect, and the other is that the number of hours of work per week should be further reduced in the case of labourers. Now, with regard to the first point, the Honourable Sir Frank Noyce has made it clear in another place that some Bills have already been passed embracing a number of recommendations of the Labour Commission, and besides the present Bill which gives effect to a large number of the Commission's recommendations, there is another measure yet to come to regulate the payment of wages. So, Indian public opinion should, in my opinion, be satisfied that effect is being steadily given by the Government of India to the recommendations of the Royal Commission on Labour in India.

The second criticism, Sir, namely, the desirability of further reducing the hours of work, does not I am afraid appeal to me. I know that European countries have accepted a 48-hour week, but, Sir, conditions in India are not the same as in foreign countries. The first thing that we must remember is that the labour in India is far behind other countries in point of efficiency, and India is so backward industrially that she has yet to make large headway. Then there is the fierce foreign competition that Indian industry has to face. And lastly, we should not lose sight of the great economic depression and other difficulties through which the industry here is passing. There can, therefore, be nothing like over-production in this country for as long ahead as one can see. Thus we will find that India cannot afford to imitate the highly industrialised countries of the west for many years to come in this matter. Taking a detached view of the case, I feel that on the whole an honest attempt has been made on the part of the Department of Industries and Labour in this Bill to hold the scales even between capital and labour. There is one important point, however, to which I should like to refer. And it is that the Government of India should exert their influence to bring the Indian States into line with British India in the matter of labour standards. We have been very much handicapped in the past in all matters of labour legislation because of the Indian States lagging far behind British India in such matters. The Indian States enjoy so many advantages over British India in the shape of low wages, long hours of work, cheap living, low taxation and the like, that there is a tendency for industries more and more to migrate to Indian States, and if more burdens and restrictions are imposed on industries in British India without the Indian States coming into line, this danger would be accentuated. The Government of India should therefore bear this fact in mind and try their best to see to it that the Indian States conform to the general principles of this legislation.

With these words, Sir, I heartily support the Bill.

THE HONOURABLE MR. P. C. D. CHARI (Burma : General) : Sir, I have great pleasure in supporting this Bill which is largely based upon the valuable recommendations of the Labour Commission. I am glad to note that the Bill represents a compromise between the conflicting claims of labour and capital. I am also glad to note that this happy compromise was due to the strenuous efforts of the Honourable Sir Frank Noyce. I find that the

claim made for it that it is administratively sound and workable is correct. The Bill is certainly a vast improvement on the present conditions of workers in factories in India. I believe the Bill ensures a steady progress in the conditions of workers though the Bill does not go as far as one would like. The Bill insists upon considerable improvement in conditions of work in factories and the measures included in the Bill regarding health and safety, especially the provisions relating to humidification and cooling process are highly commendable and I hope that it will be made possible to introduce the cooling process in all the factories and that the question of cost will not stand in the way of Government enforcing these provisions against as many factories as possible. I find the Bill contains very wholesome provisions and in effect guarantees to the Indian factory worker minimum humane requirements and contains a guarantee for minimum humane conditions, though the conditions can very well be improved at a subsequent stage. I note with regret that the Bill does not apply to factories employing 10 or more workmen. I hope that the Local Governments will not be slow to exercise the powers under section 5 to bring under the purview of this Act as many factories as possible in which 10 or more persons are employed. I hope the Honourable Member in charge of this Department will see to it that Local Governments do exercise the powers given to them under clause 5. I find that certain recommendations of the Labour Commission have not been given effect to and find certain other omissions which are considered quite essential in the interests of labour in factories. One such omission relates to education, about which my Honourable friend Sir Ramanna Menon has spoken at some length and I heartily support the suggestion made by him that steps may be taken to ensure to the workers and especially children under 15 years of age at least of the benefits of elementary education. One other omission which I noticed is this. In the case of factory workers in England there is a possibility of issuing welfare orders by the Ministry of Health relating to housing and sanitary conditions, which increases the efficiency of the workers and tends to their contentment and happiness. I do not know if I am correct in assuming that these provisions have been omitted because the Bill is confined to conditions of work inside the factories. Probably it was thought necessary to bring forward other legislative measures for improving the condition of the workers actually employed in the factories in respect of their housing and other conditions of life outside the factory, though they may be housed inside the factory area. But I hope steps will be taken in this behalf, especially as this Bill makes no provision in this matter and I do not think it is possible to invoke rule-making powers for this purpose. I note also that it was not possible to reduce the number of hours of work in Indian factories. If however 48 hours is considered to be the maximum to prevent industrial fatigue in cooler climates like England, I believe in a country like India with its excessive heat that industrial fatigue will be reached in less than 48 hours. But I suppose we have to make some concession to industrial concerns seeing that they have not got efficient conditions of production and so labour may have to work a little longer, but I hope and trust that it may be possible for industrial concerns voluntarily to introduce lesser hours of work, namely, 48 hours. I would also suggest to Government that when they have had time to see the result of the working of this Act they should see whether it is not possible to reduce the hours from 54 to 48. And the ideal goal for future legislation should be a 42-hour week; and meanwhile steps should be taken

[Mr. P. C. D. Chari.]

in regard to housing and other conditions to so improve the efficiency of labour as to make it possible to arrive at that ideal of a 42-hour week. In this connection I would request Government to hasten legislation recommended by the Labour Commission to do away with the middlemen, who robs the labourers of a considerable part of their earnings, and so ensure direct payment of wages to labourers by the employers. This is a crying need to protect the interest of labourers in Burma.

With these words, Sir, I heartily support the measure.

THE HONOURABLE MAHARAJA JAGADISH NATH RAY OF DINAJPUR (Bengal: Nominated Non-Official): Sir, not a factory-owner myself, but as one vitally interested in the welfare of peasants and workers and being particularly solicitous about ordered progress of society I should like to discuss the measure in its principles as well as a few of its details. I can, however, say at the outset that I welcome the Bill so far as it goes, and sincerely congratulate the representatives of capital in the country for their standing by it quite readily. The force of time seems to have brought about a healthy change in their outlook and it is really a good sign for the future.

Although I am personally more interested in the agriculture of the country I am well aware that the economic position of a land is equally dependent on its industrial progress. And no industry can thrive without efficient labour. We can, however, never forget the Indian industrial labourer is even now an agriculturist in all conscience. Labour in cities is chiefly rural labour. Able-bodied men in villages are generally found in slack agricultural seasons to migrate to factory areas in order to supplement their earnings. The industrial labourer as a whole-time worker has not yet developed in this country in such a manner as in the west. India was formerly a country of cottage industries and the factory system is practically of recent growth. The first Factories Act was put on the Statute-book in 1881. The owners of factories could never welcome such innovations and the labourer in those days was really put to great hardships. It was only in 1891 that wide provisions were made for in the Act. A mid-day stoppage of work was prescribed in all factories except those worked on shifts, and Sunday labour was prohibited. The hours of employment for women were limited to eleven with intervals of rest. The hours of work of children, that is below the age of 14, were limited to seven and children below nine were not to be employed. The Act of 1911 shortened the hours within which women and children might be employed. The Amending Act of 1922, introduced as a result of the Washington Conference held in 1919, shortened the hours of work to a 60-hour week and raised the minimum age for children to 12. Then there were other amended Acts in 1926 and 1931. The definition of "factories" also was widened gradually. Anyhow, every factory had to maintain a register of all persons employed in the factory shewing their hours of work and the nature of their respective employment. Still, there remained much to be done in regard to industrial labour, not to speak of labour in general. The Royal Commission appointed in 1929 under the Chairmanship of the Right Honourable Mr. Whitley made an elaborate study of the situation in India and published their Report in 1931. Special importance has to be attached to the fact that the Commissioners including representatives of employers,

workers, legislators and officials were practically unanimous about their recommendations, not less than 375 in number. The Government of India too, it must be said to their credit, were not very slow in considering how far they could go in the matter of those recommendations. The two reports, published by them in 1932 and later, shew the extent of action taken on the said recommendations by the Central as well as Provincial Governments. The present Bill is, of course, an outcome of all that.

Sir, in 1922 India obtained recognition from the League of Nations as one of the eight of chief industrial States in the world on account of her having 28 millions of agricultural workers, 141,000 maritime workers, etc., and over 20 millions of workers in industries including mines and transport. The Census Report of 1931 shews a considerable increase in all sections. The number of factories in 1932 increased by over 3,000 on those in 1922, and the number of persons employed on an average daily registered an increase of about 59,000 upon 13 lakhs in 1922. Bombay and Bengal have no doubt the largest number of factories. Bengal alone could boast of 1,487 factories in 1922, and there have, of course, been gradual increases since then. By the by, when I find that the Census Report of 1931 mentions 31½ millions as the number of agricultural labourers I am constrained to remark that factory labour is receiving much greater attention than agricultural labour, and it is high time that steps should be taken more earnestly to improve the condition of labourers in the fields also.

Sir, the latest statistics that we have for 1932 show that in British India about 1,800 perennial factories and nearly 3,000 seasonal factories require the labourers to work for more than 54 hours a week, and about 2,500 factories make the workers labour below 48 hours. The statistics do not shew the hours of work in particular industries. It may be noted here that railway workshops come under the Indian Factories Act ; and there, however, not more than 48 hours of work are insisted upon. In the jute mills of Bengal 54 hours is generally prevalent. In sugar factories, waterworks, etc., also, the working hours, it seems, do not usually exceed 50 hours. It is generally in the cotton textile mills only that labourers are worked for 60 hours. The rice mills and oil mills also, I suppose, sometimes work as many as 60 hours. Thus the working period of almost half the factories is not beyond 54 hours. So it may be reasonably said that by limiting the work to the same 54 hours through the present Bill we do not go far enough. The present Bill enjoins that 11 hours per day and 60 hours per week should be observed in the case of seasonal factories and 10 hours per day and 54 hours per week for workers in perennial factories. The maximum hours of work permitted in case of children is five hours per day in all factories. The proposal to introduce a third age group of "adolescents," i.e., persons over the age of 15 years and under the age of 17 who have not been certified as fit for adult employment, is quite good. It is not unnatural, however, that the millowners are afraid of competition from outside and have to think twice before even a cautious step is taken. But we cannot be blind to the fact that in most of the western countries 48 hours a week is the common period for work and there is a movement for not going beyond 40. Those who will advocate less than 54 hours in India have to remember that labour here is not so efficient and that the wages of the labourer can never be reduced along with the shortening of his working hours. But long working

[Maharaja Jagadish Nath Ray of Dinajpur.]

hours have been known to produce sometimes less concentration to work, lax discipline and habits of taking intoxicating drinks. Public health is indissolubly connected with this problem of working hours. As in the opinion of doctors fatigue of muscles comes a little later than the fatigue in the nervous system, it is never safe to let the poor labourer drudge on beyond a limit for even an extra pittance. The habit of drink which has been the bane of labour life is prompted by internal fatigue. The "optimum stage" in work, good feeding and healthy surroundings are the requisite conditions under which only efficiency of work and public health can improve. We must, of course, be more careful about female labour. Some allowance and relaxation of work ought to be made for women for a period before and after childbirth. And there must be made some arrangements for keeping a reliable register of diseases and death in each factory.

I agree that the Bill as a consolidating one is really of far-reaching importance to the workers in the factories. But the application of this Bill has been limited only to factories employing 20 or more workers a day. We should not forget that the control of employers in smaller factories also is not less exacting in any way on the labourers, and the number of such factories also is quite large.

Sir, I understand that some Acts have already been passed on the recommendations of the Commission and some more have to come in, in order to supplement the object of this Bill. A Bill to regulate the payment of wages has to be passed as early as possible. So the position of workers in the country can only be judged on the cumulative effect of all such measures. The improvement of the wages of factory labour should in any case be made as earnestly as the cutting down of working hours has been done.

As to welfare work in Chapter III, I note with pleasure the provision for water supply, rest shelter and first aid, but I do not really see why a uniform standard of wider scope, if not of greater beneficence, could not be set? The welfare orders in England are issued by the Secretary of State. To empower the Local Governments in such a case to pass orders, relating to welfare for particular classes or groups of factories, would have been far less objectionable. It is true that labour is quite unorganised while the capitalists are very well organised in this country. But it would be too much to say that Local Governments might find it difficult sometimes to resist pressure from influential quarters in coming to its aid. The Honourable Member in charge of the Bill ought, however, to look carefully into the complaint that too much of discretion has been given to the inspecting staff. I may only remind Honourable Members that however good may be the object of a law the beneficent effect will depend almost entirely upon the men who administer it and how its provisions are acted upon.

With these words, Sir, I heartily support the Bill.

THE HONOURABLE SIR GHULAM HUSAIN HIDAYATALLAH (Bombay: Nominated Non-Official): Mr. President, I would like to make a few observations on this Bill. This Bill is a step forward in the social legislation of this country. It is a beneficial measure and it is a measure of far-reaching importance to the workers in factories. Sir, in this country the prosperity of the capitalists

very largely depends on the contentment of the labourers. Well, labour cannot do without the capitalists and capitalists cannot do without the labourers. I had no mind to speak, Sir, but the Honourable the Maharaja Sahib of Dinajpur raised a point that 54 hours that are provided in the Bill ought to be reduced to 48 hours. But I submit, Sir, the Honourable Member in his speech replied to himself. First he said: We have not got in this country industrial labour different from agricultural labour. He said the industrial labour is recruited from the agriculturists, and those agriculturists when they have nothing to do in their fields come and work in the factories and other industrial works. He further stretched the point that therefore industrial labour is inefficient in this country. Yet, Sir, knowing that our industrial labour is inefficient, the Honourable the Maharaja Sahib ought not to have advocated 48 hours instead of 54.

Then we should not forget that 48 hours are done in only highly industrialised countries. Here again, there is another danger side by side. As one speaker pointed out, most of our industries are now emigrating to the Indian States because of cheap labour there and also because all these various enactments are not applicable to them, as for instance the provisions of this Bill. And then they pay no income-tax.

Another point that was raised, Sir, was that some of the recommendations about the education of the children of labourers have not been given effect to. There too the Honourable Member replied to himself. He said that education is a transferred subject and I do agree with him, Sir. Therefore, this Government can not compel the Local Governments who are in charge of education, Sir. Further, I might point out again that primary education is the obligatory duty of the local bodies and the Provincial Governments give them grants. Therefore, Sir, no provision perhaps has been made in this Bill for education because primary education is the obligatory duty of the local bodies.

Secondly, he himself said, Sir, that it would be burdening the employer too much if we threw the financial burden of education also on the employers. Therefore, Sir, he has replied to himself why the provision for education has not been made in this Bill. Now, the third point that has been raised, Sir, is that this Bill applies to workers in factories where there are 20 or more and it should apply to factories where there are 10 or more. There is a provision in the Bill that the discretion is given to the Local Government. If there are any such cases where it is necessary to apply the rule, I am sure the Local Government will apply it. Besides, Sir, the mere application of the provisions of this Bill will not serve the purpose for which the Bill has been brought. If you want to enforce the provisions, you ought to have supervision. That means a larger inspecting staff for a factory that employs 10 or more workmen. The Local Governments with their depleted resources will not be able to employ all the inspectors required. Then, Sir, today and yesterday I heard that we should not tax mechanical lighters and motives were attributed to Government that Government does not want any new industry to be introduced in this country. But my Honourable friends who are advocating the application of this rule to factories with 10 or more workmen quite forgot that these factories are in the nature of small industries and

[Sir Ghulam Husain Hidayatallah.]

would be throwing additional burdens on these small industries. That means we are killing these small industries.

With these few words, Sir, I support the Bill and before I sit down I congratulate the Honourable the mover of this Bill.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY (Madras: Non-Muhammadan): Sir, the Bill before the House is of far-reaching importance to the workers of the factories and it marks a considerable advance over the present conditions of labour in India. Sir, I think the House would be failing in its duty if it did not heartily congratulate the Member in charge, Sir Frank Noyce, who is one of the civilians coming from my province whose broad sympathies are so well known, and that we all feel that whatever department he goes to he will deal with the subjects that come before him in his usual sympathetic way. Sir, I join heartily in congratulating him for this beneficial measure which will benefit all labouring classes in India.

Sir, a great deal has been said by Sir Ramunni Menon regarding the education of the children of employees. So far as that is concerned, I think it comes within the purview of employers. I am sure the Madras Member will agree with me that one of the leading firms in Madras, Messrs. Binny and Co., have provided not only tenements at a very reasonable rate but they are also giving free educational facilities to the children of the labourers who work in their mills. This is a matter of congratulation and I hope other provinces will follow suit. The Madras Corporation have built tenements for the poor on the model provided by other firms. I am afraid therefore I cannot agree with Sir Ramunni Menon regarding education facilities to the children of the employees. Apart from that, in my province they have got free day and night schools where the children of the labouring classes can be educated. Therefore the question of education does not concern us so far as the Bill is concerned.

With these few words, Sir, I support the Bill.

***THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa: Muhammadan): Sir, the Bill before the House is such that no one can take exception to it. It is definitely in the interests of labour that a Bill of this kind should be brought forward. The only point is whether it is an advance in keeping with the times or not? We had labour legislation as far back as 1911. The first Labour Act was passed in 1911. This is a consolidating, and incidentally, an amending Act. It advances where the other Act was not up to the times. If I judge this Bill by this criterion, I find that it is to a certain extent halting and not, if I may say so, in consonance with the spirit of the times through which we are now passing. There are no doubt some very necessary provisions which this Bill has made which did not exist in the old Act, but about which I may say that factories have already taken a lead. I refer particularly to the cooling arrangements. I had occasion to visit Jamshedpur and there I found that in the Tatas mills they had made provision for cooling the

* Speech not corrected by the Honourable Member.

air long before this Bill was contemplated. That shows that the factories are moving ahead. If so, what is the necessity of bringing forward this Bill? It is only to bring up the laggards, those who are not mindful of the interests of labour up to the mark. Another thing in which this Bill is lacking—I am referring to the point raised by my Honourable friend from Madras—I found at Jamshedpur that they have made arrangements for the education of their workers and of their children. I do not say, Sir, that each and every factory which employs a minimum amount of labour should make provision for the education of its workers and their children. But when we pass an Act, it is essential that Government should take this opportunity of imposing some sort of obligation on employers of a large number of labourers to make provision for the education of the children of their employees. There are factories in outlying areas where there are no municipalities or other public bodies to take up the work which should rightly fall on the shoulders of large employers of labour.

Sir, the point was made by some of my friends that Indian States are in an advantageous position as compared with British India. This point has got much more force behind it. We see every day that in a number of Indian States imposition is made on goods passing from British India to their territory. But we in British India are still believers in the old doctrine of free trade. I do not for a moment wish to suggest that free trade is a bad thing. But if you have it, have it fully or do not have it at all. It is bad policy to give an advantage to a part of the world without any recompense. Government should take early steps to see that all these beneficent measures for labour are given effect to in the States. If they are not giving effect to them, then goods coming from their territory should not come in free and so compete with the indigenous products that are being produced at a higher cost in British India on account of better management. Slavery should not be put at a premium by the action of the Government after its abolition.

I find that Government have made provision in this Bill whereby the minimum number required to constitute a factory is 20. They have done tardy justice. They have admitted that this minimum is a bit higher by providing in clause 5 that places employing 10 men can be regarded as a factory if the Local Government so directs.

THE HONOURABLE SIR FRANK NOYCE: My Honourable friend is talking of these provisions as if they were new. The figures of 20 and 10 are both in the existing Act.

THE HONOURABLE MR. HOSSAIN IMAM: As I said in the beginning I do not think it should be taken that whatever was there was gospel truth. That Act is being amended and consolidated because it is out of date and there is no reason why we should copy the old Act. In clause 5 the provision is such that it gives almost complete provincial autonomy to the Local Governments to do whatever they like. It is essential in the interests of uniformity that some indication should be given to Local Governments to guide them in their work of notifying places as factories within the meaning of this Act. It has been our experience during the last 19 years since the Act came into being that this provision has remained almost a dead letter. As no guiding principle is laid down, this has proved to be a pious wish and I am very much afraid that if Government do not give any indication in this connection, it will remain a dead letter.

[Mr. Hossain Imam.]

Sir, the Honourable mover mentioned the provisions about health safety which have been made. I welcome those provisions. They are very much overdue. But I am afraid that the Select Committee—I do not know whether on the suggestion of Government or of non-official Members—removed a very good provision contained in the original Act. I am referring to the provision about wages and returns. This was taken out because it was thought that it would not find a place in a Bill the object of which was to regulate labour. I cannot understand how labour and wages can be separated. If the Government has taken it out of this Bill may I hope that in the very near future a more comprehensive and advanced Bill about the fixation of wages will be introduced? There is a great deal of difference of opinion among us about hours of work. Some of my Honourable friends have cited and recited the old story of inefficiency of Indian labour and some have advanced other arguments in opposition to the reduction of hours of work. Personally I think in India with its teeming millions and great unemployment, the smaller the job of work the greater will be the number of men employed to do the same amount of work, and the maxim that the government should be run for the good of the greatest number ought to have swayed the Government in this matter. There is no doubt that our labour is not as skilled as, e.g., British labour. But why? Because they have for generations been factory workers. We are newly in the field. We cannot expect our labour to have that almost instinctive aptitude for work which a labourer in England acquires. Nevertheless we must not blind ourselves to the fact that this theory that all industrial labour reverts to the land is not true of all industries. It may be true in regard to some which are seasonal in character. But the larger industries which have been long established have now got specialised labour which sticks to the work almost throughout the year, and only goes home at intervals on leave and does not take part in agriculture as such. For instance, take the mill industry in Bombay with which Sir Hidayatallah is more familiar than any one else—

THE HONOURABLE SIR GHULAM HUSAIN HIDAYATALLAH: But I quoted the Honourable Maharaja Sahib of Dinajpur who says they are agricultural labourers that go to industrial centres.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, in our part of the country we have the coal industry which is not working throughout the year, but closes down for intervals for want of customers or too great stocks, and that labour and the labour roundabout Calcutta are seasonal. But I was talking about the established industries, which are not seasonal and where workers are slowly developing an aptitude for that work alone. I am particularly referring to Jamshedpur where the labour is stationary and most of the skilled labour has been employed over many years together. I have seen men there who have been in Tatas since 1907. In this connection about hours of work, although I am very much against giving powers to the executive, I wish the Government had taken one more power. I refer to the case which really is an all-India concern but has particular reference to Bengal—I mean the case of industries which on account of over production or other causes have decided to restrict work. For instance, the jute mills in Bengal have started to restrict work. But the trouble is that while those belonging to the Association have

restricted output, those outside that Association are working full time, with the result that the latter are reaping the harvest while the others are losing. The fact is that the industry has had to restrict output to keep up prices, but advantage is being reaped by those who will not adopt the only method by which prices can be maintained. I wish the Government had taken power under this Bill to enforce restriction in working where the majority of those engaged in that industry wanted restriction to be put on output. Sir, I was greatly surprised to find in section 36 the provision for spread work over 13 hours in any day. Spread work can be allowed and is necessary, but 13 hours in 24 is something which savours of slavery rather than work under civilised conditions. Sometimes I find that even after much consultation and collection of opinions the Government seem undecided as to what to do. That indecision is apparent from section 46 where it is not decided whether a day shall begin from midnight or be left to Local Governments to decide. If it is necessary to have it from midnight, let us have it. If this power is given to Local Governments it means there may be differences of opinion. There ought to be uniformity, and the power ought to have been given to the Governor General in Council to say at what time the day shall begin for different classes of industries and works.

I should like to say a few words about the provisions for inspection. Inspection is the main thing which keeps things in right order, and unless you provide for inspection in such a manner that you can see how all these provisions are carried out, it will be a mere dead letter. I would therefore request that, though inspection may remain partly under the Local Government, there should be some centralization, or at least there ought to be a Board to co-ordinate local efforts, so that experience of inspectors in one area may be available to other areas.

I need not refer now to the question of a 54 or 48-hour week, because it forms the subject-matter of an amendment and it will be dealt with in detail then.

In conclusion, I should like to say that this is a good Bill, but has come a little too late and somewhat lacking in certain respects.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay: Nominated Non-Official): Sir, I cordially support the Bill. I would characterise it as a humanitarian Bill, inasmuch as it secures fair conditions to the worker, reduces his hours of labour and ensures provision for his health and safety. The present year 1934 may well be remembered in the annals of labour legislation as the year of its Magna Charta. The amendment of the Trades Disputes Bill, and various other measures in the Provincial Councils, like the Bombay Maternity Benefit Bill and the proposed Bill in the Bombay Legislative Council for the appointment of liaison officer, as a conciliating officer or mediator between the employers and the employed are all calculated to improve the conditions of the workers in India. For this advance, Sir, we have to express our gratitude to the Royal Commission on Labour and to the Honourable Sir Frank Noyce for his great solicitude in the interests of labour. If, however, all these Bills and Acts are worked as they should be, they should cut the ground beneath the feet of those socialist or really communist agitators who are out to injure the cause of labour by holding before it promises

[Khan Bahadur Dr. Sir Nasarvanji Choksy.]

which can never be fulfilled and deluding the ignorant workers Utopian dreams. The only basis they work upon is what they imagine to be the conditions of labour that exist in Soviet Russia. From the latest information that we possess—I do not desire to trouble the House with the various details—it is well known however that in Russia they do not acknowledge the right of labour to strike : strikes are put down ruthlessly and refusal to work entails imprisonment. The worker is paid according to his production. If he is inefficient, and produces less than his quota, his wages are cut. The Dictator has recently promulgated a formula which lays down :

“ From each according to his capacity ; to each according to his labour ”.

It will thus be seen that there is no equality, nor uniformity in workers' wages. At the same time there are other good features. An efficient worker is paid higher salary, it is subject to 60 per cent. income-tax as it is not permissible to accumulate capital. Exceptional merit, inventions and discoveries are rewarded by the Lenin medal. I should like to know whether the Indian worker would prefer to work under the conditions of this Bill or work under the Soviet rule ? Is it not high time, Sir, that those who pose as leaders should inculcate these facts into the minds of the workers and refrain from encouraging them to strike on imaginary or plausible pretexts ?

As regards the provisions of the Bill, Sir, I would first refer to the hours of work. Further reduction to 48 hours depends not upon Government, not upon the employer, but upon the worker himself. If he is efficient and diligent, if he gives due attention to his work and does not waste an enormous amount of time away from his work discussing family affairs, the hours could be reduced. It is well known that when a worker goes out, another worker has to look after his machines in addition to his own and production thus suffers. Is it conceivable that labour could be efficient under such conditions ?

With regard to the confirmation by the certifying surgeon of the certificates given by authorised medical officers, the interval of three months is too long. It is probable that during the interval, the health of the worker may deteriorate through illness and he may cease to be considered fit at the time of countersigning his certificate. One clause is of special importance and relates to the water which is used for humidification of the factories. It is enjoined that it should be taken from a public supply or some other source of drinking water. It may be that sometimes the most convenient source is the factory tank ; as no amount or method of purification could make such water harmless. The practice should be prohibited. As regards workers employed on hazardous operations, whatever other precautions that may be taken, I think such workers, subjected as they are, to great risks, should be examined periodically, at least once in a year, if not once in six months, to see whether under these hazardous operations they have deteriorated in health. There exist, Sir, difficulties in the employment of shifts. A man works during the day time and then goes to another factory at night. That does not conduce to his health or efficiency—and should be strictly prohibited under a penalty. Under no circumstances exemption should be allowed. The standards of physical fitness should be laid down according to age : for height, weight, breath-

ing capacity, etc., and lung and heart troubles should be carefully noted. One or two diseases which are not easily diagnosed should be especially looked for, namely, tuberculosis and leprosy. The examination must be thorough to ensure that the worker is in sound health and able to work. Another section deals with the prevention of work by a child in more than one factory. Very often the parent or the guardian encourages this practice, he pockets the wages, but when asked denies all knowledge. The child is tutored to say that he did it of his own accord. For these reasons more stringent regulations and penalties are required. The child under these circumstances should be debarred from working in any factory at all for a year as a deterrent. The penalty upon the parent or guardian for infringement should be very heavy in such cases. One practical suggestion I should like to make is that all the provisions of this Bill which relate to hours of labour, employment, etc., should be translated into various vernaculars and it should be made obligatory under the rules upon the managers of factories to explain the same to the workers rather than allow the agitators to misinterpret them. The unions which exist at present can do a considerable amount of welfare work, encourage educational facilities and reclaim the workers from drink and other vices. The worker should be told that he has certain duties towards his employers through discipline and efficiency. The Bombay mill worker is a casual worker; he is an agriculturist first and a mill worker after. And thus there is a real want of efficient workers who have made mill work their life-long calling from generation to generation.

With these few remarks, Sir, I cordially support the Bill.

THE HONOURABLE SIR FRANK NOYCE (Industries and Labour Member): Sir, the number of speakers who have addressed the House this morning is evidence of the fact that the House realises that this is the most important of the measures which have been brought before the Council during the time that I have been in charge of the Portfolio of Industries and Labour. The measure now before it has received a very marked degree of support from all quarters of the House and I much appreciate what previous speakers have said about it and about my own part in it. There has only been one discordant voice which has come from a quarter from which we on these benches are accustomed to expect denigration of any measures we may bring forward. My Honourable friend Mr. Hossain Imam spoke very contemptuously of this Bill. He said we were merely following the example of what good employers have done already; there is therefore no necessity for a measure of this kind; good employers have already taken action; why should Government bother? That seemed to me the gist of his argument and I personally can imagine no better reason for bringing forward a measure of this kind. Our whole object is to bring the bad employers up to the standard of the good ones. We are in this Bill endeavouring to enforce a minimum standard for the treatment of labour. We hope that it will be a minimum standard, that good employers will still go on doing more than we have laid down for them in this Bill and that in say, five or ten years time—the sooner the better—my successor, whether a Member of the Executive Council or a Minister in a reformed Government, will be bringing forward another measure to bring the conditions of that time as far as labour is concerned up to the then prevailing standard of the good employers. The Honourable Mr. Hossain Imam's criticism seems to me a most

[Sir Frank Noyce.]

unworthy criticism of our efforts to ameliorate the conditions of labour the House, Sir, will not, especially at this hour of the day, expect me to examine in very great detail the various criticisms which have been brought forward against the different clauses of the Bill. When a comprehensive measure of this kind is brought forward, it is always very difficult for the Member in charge of it to reply at length to the various points which have been raised in the course of debate. Here we have 80 clauses. It is true that there is a thread of connection between them. They are all intended to improve labour conditions but some of them deal with one aspect of the question and some with another.

I should like to say one word with regard to one or two detailed criticisms which my Honourable friend, Mr. Hossain Imam, brought forward. It is unfortunate that he could not be present at the discussions we had in our Department with the Chief Inspectors of Factories or at the discussions that took place in the Select Committee of the other House, for he would then have realised that the points he mentioned were certainly not neglected in the course of discussion, that they were all carefully examined and that, where the Government did not accept the view he thinks they ought to have accepted, or where the Select Committee did not accept that view, there were very good reasons for their not doing so. Take this question of shifts. The Honourable Member says Government do not know their own minds as to when a shift should begin, whether it should begin at midnight or at some other period of the day. Government know their own minds perfectly well. The reason why they have provided exemptions in certain cases is because, if no exemptions were provided, there would be considerable difficulty caused to employers of labour when it came to changing over the shift. Then as regards the spread-over, he thinks 13 hours a terrible period over which to spread work in a civilised country. The conditions in other civilised countries are not the same as they are in India. Other industrial countries of the world do not get the torrid conditions that we get in India in the hot weather, which may make it desirable to have a system of shifts which allows for work early in the morning and late in the evening and lets workpeople off in the middle of the day.

THE HONOURABLE MR. HOSSAIN IMAM : May I know of any instance of this—where the middle of the day is given off?

THE HONOURABLE SIR FRANK NOYCE : I may explain to Honourable Members that one reason for fixing this particular period of spreadover was that it would suit a system of shifts which might be of great assistance to the Bombay cotton mill industry and to which, from our point of view, there would be no valid objection.

Now, Sir, the main criticism which has been brought against the Bill is that it does not go far enough,—a criticism to which we are used in dealing with questions of labour legislation. My Honourable friend, Diwan Bahadur Sir Ramunni Menon, a distinguished educationist, complains that the Bill does not include provisions for the education of the children of the industrial employees. That is a complaint which was repeated by certain other Honourable Members. As my Honourable friend, Sir Ghulam Husain Hidayatallah, speaking with all the experience of a Minister and a Member of the Executive

Council of a Local Government, pointed out, the Honourable Diwan Bahadur Sir Ramunni Menon proceeded to reply to his own complaint and to point out that education is a provincial transferred subject. Even so, I was waiting patiently to hear from him exactly what recommendation the Royal Commission had made in regard to education which could have been incorporated in this Bill. He very definitely complained that we had not incorporated in the Bill certain recommendations of the Royal Commission on Labour. I hoped he would explain what these recommendations were. What the Royal Commission on Labour said on this point was that :

“ The main responsibility for education in industrial areas cannot be thrown on the employer. In this as in other matters some employers have done admirable work in attempting to remedy the deficiencies of responsible authorities and we believe that few would be unwilling to co-operate if definite and reasonable schemes were put before them. It is for the educational authorities to take the lead but the end in view justifies us in calling on employers' associations and individual employers to assist ”.

I do not see what warrant there is in the remarks of the Royal Commission for the suggestion that we have failed in our duty in not including some compulsory or even permissive clauses in this Bill to deal with the question of education.

THE HONOURABLE SIR RAMUNNI MENON : May I as a personal explanation point out that in the Report of the Royal Commission, in the section on education, this sentence occurs :

‘ We would emphasise the fact that because of this (i.e., the disabilities under which illiterate labour is placed), the education of industrial labour should receive special attention’.

It is to that recommendation that I wished to call the special attention of the Government to.

THE HONOURABLE SIR FRANK NOYCE : The special attention of the authorities in charge of education, namely, the Local Governments and the universities—not of my Department which is concerned with labour and not with educational questions. We think it would be a very great mistake to mix up educational questions with the regulation of factory labour. I must say, Sir, it has afforded me a certain amount of surprise, not unmingled with amusement, to notice the way in which the representatives of the landed interests are willing to place an additional burden on the employers of industrial labour in regard to the education of their workpeople. I may point out that that sort of argument is a double-edged weapon and that the time may come when the employers of industrial labour will suggest that landlords might make provision for the education of agricultural labour.

The question of hours has been raised and, as was to be expected, the arguments on both sides cancel out. I do not propose to deal with it at any very great length. I would only say that the limits of hours that we have included in the Bill are in accordance with the recommendations of the Royal Commission.

The Royal Commission said—it is important to remind the House what they did say—on this question :

“ Many operatives would have to face large reductions in their earnings and, while we do not doubt that part of this loss would be made good before long, we are not convinced that the operatives as a whole are in a position to regain their old standard in any reasonably short period ”.

[Sir Frank Noyce.]

They go on to say :

“ But efficiency is not likely to be raised so surely by a sweeping reduction as by a smaller one, and there will be nothing to prevent a further reduction, if the results of the smaller change which we advocate indicate that this is desirable ”.

That is the argument in favour of a 54-hour week. Anything below it would throw an intolerable burden on certain industries especially in the present economic depression, which though it shows signs of lifting is certainly very far from disappearing. The House will agree that the standard of living among workpeople in this country is not as high as it should be and there can be no doubt whatever that an immediate reduction from a 60-hour week to a 48-hour week in many industries would depress that standard of living still lower. We all realise that a 54-hour week is still a very long week and that it is desirable to reduce it. I hope that it will not be long before it will be reduced. But, as my Honourable friend Sir Ghulam Husain Hidayatallah has pointed out, this is certainly not the time for such a reduction.

My Honourable friend Mr. Chari said that the Bill does not apply to the factories which employ from 10 to 20 workers. I think what he meant was that it did not apply automatically to such factories. The important change we have made there is that we have allowed Local Governments to extend *any* of the provisions of the Act to such factories. Under the existing Act, if they want to extend it to factories which employed between 10 and 20 workers, they had to extend the whole Act, and that has been a very great bar to any progress in regulating these small factories. We hope that it will help progress if Local Governments are able to extend only such of the provisions as they think fit to extend. The question is one of staff. The House knows as well as I do that Local Governments have not got the money for additional staff in present conditions. We are placing considerable extra burdens on them by the provisions of this Bill, and it is certainly not desirable to add to our impositions by compelling them to extend the whole Bill, when it becomes an Act, to factories which employ between 10 and 20 workpeople. We hope they will go ahead in that direction as rapidly as financial conditions permit.

My Honourable friend Mr. Hossain Imam thought there was something sinister about our omitting from the Bill the provision originally included in it empowering Local Governments to call for returns of wages in industries. Surely there is nothing whatever sinister about that, Sir. He has himself suggested the reason why we left it out. We felt that this was a question which could much better and more properly be dealt with in a proper statistical Act. We hope before long, as a result of the investigations of Professor Bowley and Mr. Robertson, to be able to produce an Act of that character.

The Honourable Mr. Hossain Imam also brought forward the proposition that this Bill should be used to regulate production in the interests of certain sections of the jute industry. That, Sir, is a proposal from which I strongly dissent. We are here concerned with conditions of labour. We are not concerned with conditions of production. Those are entirely separate matters, and if any legislation is necessary in regard to them, it should be entirely dissociated from the legislation we are discussing today. We are not concerned here with any question of profits and losses in any industry, jute or any other.

Regret has been expressed in certain quarters that we have not followed the recommendation of the Labour Commission and conferred on Local Governments the power to pass welfare orders. I notice there is an amendment on the agenda paper in that regard to be brought forward by my Honourable friend Pandit Prakash Narain Sapru. The Honourable Pandit is the son of a very distinguished lawyer, and himself a lawyer, and I was rather surprised to find an amendment of this character standing in his name, for two reasons. One is that I do not think he can have read the discussion on this particular amendment in another place, and the other is that he, as a lawyer, would I should have thought, have realised that our legislation is not improved if we copy legislation of other countries wholesale and do not examine the question how far it fits in with our own legislation. This particular amendment is copied from a British Act without any alteration and suggests that Local Governments may be empowered to make rules in regard to various matters such as the supply of protective clothing, ambulance and first-aid arrangements, arrangements for preparing or heating and taking meals, the supply and use of seats, accommodation for clothing, facilities for washing, supply of drinking water, arrangements for supervision of workers and the provision for rest rooms. The point which I wish to bring to the notice of the House is that quite a lot of these matters—first-aid arrangements, supply of protective clothing, facilities for washing, supply of drinking water—are covered by different clauses of the Bill. What would be the object of giving Local Governments powers to make further rules in regard to them? They have power to make rules already.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU: May I explain that the Commission contemplates something more than that also? They say:

“The type of welfare we have in mind covers such matters as washing facilities, ambulance and first-aid requirements, arrangements for taking meals and allied matters”.

And then they say that there should be a general power to the Local Governments to pass orders from time to time.

THE HONOURABLE SIR FRANK NOYCE: Yes, Sir. That is exactly my objection to the Honourable Member's amendment. He has referred only to power in regard to these specific matters. If he had added at the end of his amendment “and kindred matters” I could have understood the amendment. But he has not done so. He is merely asking for powers in regard to certain matters which are already covered by the Bill and certain other matters such as provision for rest rooms. It is a little difficult to see what Indian labourers would want with rest rooms. Again, as regards the supply and use of seats—as far as I know him, he prefers to lie on the ground. If seats were provided for him, he would not use them. And I certainly do not understand what is meant by arrangements for supervision of workers. My objection to this amendment, Sir, is that as it is worded it is unnecessary, and as my Honourable friend Pandit Prakash Narain Sapru apparently desires that it should be worded, it would go too far.

THE HONOURABLE THE PRESIDENT: I would mention to the Honourable Member that I have not yet admitted that amendment.

THE HONOURABLE SIR FRANK NOYCE : I have to thank you, Sir, that information, but in regard to the point of principle, I would explain that we do feel it desirable that only concrete proposals for welfare work should be incorporated in the legislation, if necessary. I think my Honourable friend Mr. Hossain Imam was putting forward the point of view of certainly a section of the House when he said that he did not like giving executive power to Local Governments. But when we refrain from doing so, we are also subjected to criticism. We are not giving power to Local Governments in this respect as we feel that the result may be undesirable in that they may make excessive demands on employers, and that it is therefore much better both for the Local Government and for the Central Government to know definitely what is proposed and to embody that in legislation.

That I think covers all the important points which have been raised in the course of this debate except the very difficult one of Indian States. I can only say in regard to that that it is an important point and it is one which is engaging our earnest attention. I would point out that there are many Indian States, including the most important ones, such as Hyderabad, Mysore, Baroda, Gwalior, Travancore, Indore, Cochin, Jhind, Rajkot,—I cannot remember them all, but those occur to me at the moment—which have adopted our factory legislation in the past. How closely they have adhered to it I am not in a position to say, but they have certainly adopted its main features and I think there is every reason to believe that they may be willing to follow us in our present legislation.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Can I ask whether this Bill was circulated to the States for their opinion ?

THE HONOURABLE SIR FRANK NOYCE : No, Sir. We do not circulate our legislation to Indian States for opinion. A terrible vista opens out before one if we were to do that.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Not even those Bills which, if passed, you want States to agree to ?

THE HONOURABLE SIR FRANK NOYCE : No, Sir. I do not think that is a procedure which is at all desirable. It is well for us to make up our own minds before we decide what to do next. I can only say the point is engaging our attention and will continue to do so, though I think the House will agree that it is a very difficult question and will require most careful consideration. That is all I need say, except to thank the House once more for the cordial way in which it has supported the Motion moved in regard to this Bill, which marks the biggest step taken in recent years in regard to the amelioration of labour conditions in India. As to the rest, as to what we are doing in regard to carrying into effect other recommendations of the Royal Commission on Labour, it was mentioned that we have a Payment of Wages Bill on the anvil, and for the information of the House I may add that we have another Bill which we hope will come up in the course of the next session regarding the conditions of labour in mines. I would thank the House once again for the reception it has given to the Bill.

The Council then adjourned for Lunch till Three of the Clock.

The Council re-assembled after Lunch at Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay Non-Muhammadan): Mr. President, it was my intention not to speak on this Bill at this stage and I hoped to reserve my observations for the time when I spoke on the amendments, but because of a remark which fell from you, Sir, that it is possible the amendments might not be taken up that I propose to address the House now. If at first I did not intend to speak during the consideration stage of the Bill and that although I happen to be a factory owner in a small way myself and am connected with some mills in Bombay City, it was because I felt that the Bill, with all its clauses, is one which should meet with the general acceptance of both employers and employed. The Factories Act when first started was of course initiated for the welfare of labour. It has done so to a large extent, but the revised Bill as it now stands will prove of far greater benefit to the employee in this country; and for that reason we certainly have to congratulate Government on this new measure.

If I do desire to say a few words now it is because I want to meet the point on which so much stress was laid by several speakers this morning, namely, on the question of the number of working hours. The Bill reduces the working hours from 60 to 54. Some of my Honourable friends want them to be reduced yet further to 48 hours. Such change must be helpful to both employers and employed and 48 hours will help neither. Sir, the Honourable Member for Industries this morning has given his reasons as to why he prefers 54 hours to 48. May I request my friends who insist upon 48 hours to go with me through a small sum in arithmetic which will satisfy them that their proposal is perhaps not desirable? Sixty hours being reduced to 50 hours means a reduction of 10 per cent. None of these gentlemen has said whether, because they are going to work for 10 per cent. less hours, they are to draw the same pay as before or whether they expect labour to be satisfied with 10 per cent. less pay. As they have said nothing on this point, I take it for granted that they want labour, although they will work for six hours less, to be paid at the same rate as at present, *viz.*, when they are working for 60 hours. Supposing a man is getting Rs. 30 for working for 60 hours and 60 hours are reduced to 54, his pay ought to be proportionately reduced by one-tenth and he should be paid Rs. 27. Are my Honourable friends agreeable to labour getting Rs. 27 instead of Rs. 30?

THE HONOURABLE MR. P. C. D. CHARI: Certainly not.

THE HONOURABLE SIR PHIROZE SETHNA: Thank you. Then, carry the same reasoning a little further and if instead of 60 hours you now want them to work only for 48 hours, which is a reduction of one-fifth, then the pay should be not Rs. 30 but Rs. 24. And again my Honourable friend Mr. Chari and others will say "No, he ought to be paid Rs. 30." Who is to pay Rs. 30 for working shorter hours and where is the money to come from? Neither the Honourable Mr. Chari nor his friends have enlightened the House on that point and that is my grievance because these suggestions have come, I am sorry to say, from those who are perhaps not employers of labour and who do not understand, or try to understand, the situation from the employers' point of view.

THE HONOURABLE MR. P. C. D. CHARI : There will be the compensation of greater efficiency.

THE HONOURABLE SIR PHIROZE SETHNA : Talk of efficiency when efficiency is attained. We have tried to introduce efficiency for years and we have not succeeded. My friend Diwan Bahadur Sir Ramunni Menon was perfectly right when he said pay greater attention to education. If there is more education, then perhaps efficiency might follow. But at the present moment in spite of the best efforts made by those who are engaged in the cotton industry, efficiency has not risen to any appreciable extent. Whilst the Lancashire girl can manage four looms, in spite of baits, promises, higher wages, there is no efficiency and a weaver in India is generally content to work on one single loom. Here is the answer to the Honourable Mr. Chari's point in regard to efficiency. Then, Mr. President, the Bombay Millowners' Association have considered this question and it will interest my Honourable friend Mr. Chari and others who favour 48 hours to know that whilst the hours are reduced from 60 to 54 hours and although it will involve a very large sacrifice on the part of the Bombay millowners in the present state of the industry, they are generally willing to give the same rate of wages for 54 hours as they have been giving for 60 hours. May I in passing inform the House that one of our former esteemed Members Sir Manmohandas Ramji died yesterday in Bombay. Sir Manmohandas was a very prominent member of the Committee of the Bombay Millowners' Association. He was one of those who stood out for 60 hours, but when he saw that the feeling was in favour of making a gesture towards labour, he was one of the first to agree to a reduction in the number of hours, but he and his colleagues could not possibly agree to reducing 54 to 48 hours. And why not? If those Honourable Members desire that those who work for 48 hours should be paid at the same rate as they are paid for 60 hours, then I put it to them, Mr. President, supposing a factory pays Rs. 1 lakh a month for wages and they pay the same wages for 48 hours, it means they will have to pay Rs. 20,000 more for the same work. Where is the money to come from? You know the state of the industry, not only the cotton industry, but many others. Several cotton mills have gone to the wall; many others are almost bankrupt and you are simply asking for the impossible in the present state of affairs. It is because our friends have never considered the question from the point of view of the employers or from the point of view of the country at large for the matter of that, that they come forward with a suggestion which I say is an impossible one.

Now, Sir, in addition to the reasons I have given, I will also give some more. We must not forget that industries in India are in an infant stage. We cannot proceed at the same rate as they do in the west. Therefore we have to go slow. Again, Sir, we must not forget that our competitive capacity would be very seriously impaired by lessening the number of hours. This competitive capacity is to be taken into consideration not only in regard to Japan where they work longer hours and with greater efficiency but also in regard to Europe where they work shorter hours. They work there for 48 hours a week, but there is that efficiency in the west to which my Honourable

friend Mr. Chari attaches importance and which we in India unfortunately so sorely lack. Take again the case of Indian States. We are at a very great disadvantage when compared with them. My Honourable friend Sir Ghulam Hüsain Hidayatallah referred to the advantages millowners enjoy who have their factories in Indian States, because they are free from the restrictions that we have. He enumerated them but he did not include the Workmen's Compensation Act, which also is not in force in Indian States. We have to face competition not only with Japan, not only with the west, but also with Indian States and in these times and because of these factors it is positively unfair to the Indian industrialists to ask them to reduce working hours from 54 to 48. Again, as I have pointed out, it would cost a factory Rs. 1,20,000 instead of Rs. 1,00,000 as at present in wages. It will increase the cost of production and will consequently mean higher prices. Until therefore efficiency increases the hours of work in this country must not be any less than what are laid down in the Act.

I have nothing more to add except to refer to one point which was made by my Honourable friend Mr. Hossain Imam and to which a very pertinent answer was given by my Honourable friend Sir Frank Noyce. The Honourable Mr. Hossain Imam said there were good employers in the country and where was the necessity for such an enactment? He did not say what is the percentage of good employers. He referred to Tatas at Jamshedpur. But how many Tatas are there in the whole country? If there are five Tatas there are 50 bad employers. I suppose the idea in the Bill is not to level down firms like Tatas but to level up others who do not care for their employees.

With these observations, Sir, I support the Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan): Sir, I rise to put forward the point of view of the employer and of the industrialist. Sir, the House will admit that India is not yet a great industrial country. In any measures that we pass we must not only consider whether they are beneficial to labour but also whether they are equally beneficial to the employer. When the country is fully industrialised and when the condition of the industry is prosperous, then is the time to consider the measures which affect the welfare of the labourer. Sir, that at the present time as far as the Indian textile industry is concerned in which I am greatly concerned, I might say, Sir, that although the market price for some of the products of some of the best managed mills is a quarter of an anna per pound, if this Bill is passed the Indian millowner will lose half an anna per pound on his cost of production. Well, what do we see in Japan? In these days we have to see what competition an industry has to stand from foreign dumping. Japan which is said to be an up-to-date country has not adopted the Convention. In Japan, I understand, there is no limit to hours of work for men although they have fixed 11 hours as the limit of work for women. This is now a well known fact that Japan is practically putting every country out in the world in trade and industry and at this juncture, when we also are the victims of dumping from Japan, I consider,

[Rai Bahadur Lala Ram Saran Das.]

Sir, that the restrictions and other measures which are included in this will not be quite opportune.

Sir, my Honourable friend, Sir Phiroze Sethna, has made my task very easy as regards the hours of work. I simply want to add a little and that is that, as far as the up-country mills are concerned and particularly in the stations which had no such industry before, the efficiency of labour is much lower than that of towns where the industries have existed for some time. And I might say, Sir, that, as far as the Punjab is concerned, the production per head on any machine in a cotton mill is much less than what it is in Bombay, Cawnpore, or other industrial places. Sir, our conditions of labour therefore are vastly different from those countries which are highly industrialised.

It has been observed by certain Honourable Members that the wages of labour go by the price of foodstuffs. Sir, we find in practice that the wages of labour have not gone down in proportion with the fall in the price of foodstuffs. Then, Sir, another point which I wish to make is that when you fix the working hours of factories as compared with general labour, it will put employers of factories in a very difficult position. When seasonal factories are working labourers will try to go there because they will get better wages there for longer hours of work than in the Indian cotton mills and other mills which will have restrictions with regard to working hours and will find some difficulty in securing that labour at the prices to which they are now accustomed.

My Honourable friend, Khan Bahadur Sir Ramunni Menon, said that education should also be introduced in factories. The Honourable Sir Frank Noyce has already given a reply to that point but I might cite an instance which concerns my own cotton mills and which happened a few years back. In my mills I employ literate apprentices and a few are graduates. One of these graduates was grinding a knife. While grinding, he began talking to another comrade and the result was that his file slipped and his hand was badly cut. That is, Sir, an example of a graduate and I do not know whether his high education had any effect in practical life. This apprentice got disgusted and left the mill. That, Sir, is an example of how educated workmen compare generally with the non-educated.

My Honourable friend, Khan Bahadur Dr. Sir Nasarvanji Choksy, suggested that there should be more frequent medical inspection of boys in the factories and that the three months' limit which was now in force as regards the getting of medical certificates was far too long. Sir, in that connection I might say that as regards the factories which are situated in the mofussil and which are far away from the headquarters of the district it is a practical difficulty to get a certificate from the civil surgeon in those places in a shorter time. Those factories cannot afford to pay the fares forward and backward from headquarters and so the three months' limit has done well in the past. As far as past experience is concerned, there does not seem to be any practical necessity for a change in this connection.

Another suggestion was made that the definition of "factory" should be enlarged and that smaller factories should be brought under the operation of the Factories Act. Sir, I have already said that, as far as the cotton industry is concerned, we are still very backward and that it will be to the detriment of the cotton industry if the provisions of this Bill are extended to it. In case this Bill is passed into law it will also necessarily mean that the employer will have to increase the price for the manufactured cotton goods, and that will tell to a great extent upon the poor people of India. After all, the factories are not charitable institutions. They have to make ends meet, so the price of the finished product will have to increase. It was also observed that the present prices were very high. That is wrong. It is well known that the lowest prices prevail at present.

Reference was made to agricultural labour—whether there will be any fixed hours of work there also, because they are the greatest employers of labour in India. I hope they will also follow suit and give a lead in this beneficial direction. As this is an important measure, I do not propose to oppose it. I have merely made remarks from the point of view of an employer of labour.

With these remarks, Sir, I resume my seat.

THE HONOURABLE MR. D. G. MITCHELL : Sir, I have very little to add to the remarks made by the Honourable Sir Frank Noyce. Since he spoke, only two speakers have addressed the House and both of them have given their full support to the Bill. The Honourable the Leader of the Opposition has raised a few points of detail which perhaps could be discussed further when the stage of consideration is reached. Nothing remains for me now but to thank the last two speakers for the support they have given to the Bill and to repeat the statement of the Honourable Sir Phiroze Sethna that the Bill should meet with the approval of both employers and labour. I trust that the further passage of the Bill will be speedy.

THE HONOURABLE THE PRESIDENT : The Question is :

"That the Bill to consolidate and amend the law regulating labour in factories, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 5 stand part of the Bill."

Here I must point out to the Council that the Honourable Mr. Sapru has given notice of four amendments. This notice was given yesterday, the 13th instant, and these amendments are inadmissible under Standing Order 45 because two days' clear notice is required for these amendments. However, in view of the fact that a considerable amount of interest was evinced in two of these amendments this morning, namely, those regarding the reduction of hours of work and labour, I am prepared to suspend the Standing Order provided the Member in charge of Government agrees to this proposal. I would like to know his decision in the matter.

THE HONOURABLE MR. D. G. MITCHELL (Industries and Labour Secretary): Sir, Government has no wish to place any obstacle in the way of full discussion of this important measure.

THE HONOURABLE THE PRESIDENT: In view of this, I will allow the amendments.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU (United Provinces Southern: Non-Muhammadan): Sir, I rise to move:

"That in sub-clause (I) of clause 5, for the word 'ten' the word 'five' be substituted."

Clause 5 gives power to Local Governments to declare any premises whereon or within the precincts whereof a manufacturing process is carried on a factory provided more than 10 persons are working in that factory. It modifies the definition of "factory" given in clause 2 (j). My amendment would reduce the number to five. I would give the Local Government discretion to declare as premises a factory even if five persons or more are working in those premises. The reason is this. It is merely a discretionary power that we are giving to the Local Government, and we may assume that the Local Government will act wisely and in the interests of the workers. In some of these small factories, I understand conditions are very very bad, particularly in the factories in Madras and in the bangle factories in Ferozabad. For this reason, I think the limit should be reduced to five, and I would commend this amendment to the acceptance of the House.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Can you give any instances of factories where they employ only five hands or less?

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU: I cannot answer that off-hand. I have given two instances, and I suggest that the limit should be reduced to five.

THE HONOURABLE MR. D. G. MITCHELL: Sir, I think to refer to a small room in which five people are working as a factory is a misuse of the term. The Honourable Member referred to factories making glass bangles. I doubt very much whether these will be factories within the meaning of the Act which requires that power should be used.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU: May I invite the attention of the Honourable Member to the following words:

"Declare any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the aid of power."

What my amendment would really amount to is that it would reduce the number to five instead of to 10—

THE HONOURABLE MR. D. G. MITCHELL: I would put it to the House that five is too small a number to be called a factory. Further, if this power were given to Local Governments, and if they are to avail themselves of it to any degree, the expense involved would be quite incommensurate with the benefit derived. I oppose the amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to oppose this amendment because it will lead to the annihilation of cottage industries. I wanted the number to be put at 20, but did not move an amendment because the sense of the House seemed against it. It means that even a small industry worked by members of one family comprising five members will be treated as a factory to the misfortune of the family.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Since the Government does not accept this amendment may I hope that this provision will be given effect to and all possible places where 10 or more labourers are employed brought under the Act ?

THE HONOURABLE MR. D. G. MITCHELL : I am afraid I can give no such undertaking. The question is one for the discretion of the Local Government and I have no doubt the Local Government will use its discretion properly.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Government get any returns from the Local Government about this ?

THE HONOURABLE MR. D. G. MITCHELL : The returns can be culled from the official Gazettes, if any body desires to do so.

THE HONOURABLE SIR FRANK NOYCE : The Local Governments publish annual reports on the working of the Factories Act. If there is any extension to factories employing from 10 to 19 workpeople that fact will be duly mentioned in the reports.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That in sub-clause (1) of clause 5, for the word 'ten' the word 'five' be substituted."

The Question is :

"That that amendment be made."

The Motion was negatived.

Clause 5 was added to the Bill.

Clauses 6, 7, 8, 9 and 10 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 11 stand part of the Bill."

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central : Non-Muhammadan) : Sir, I beg to move :

"That in sub-clause (b) of clause 11, after the word 'registers' the words 'during working hours' be inserted."

This is a very simple amendment. Under clause 10 (4) and (5), every district magistrate shall be an inspector for his district, and under sub-clause (5) the Local Government may

"Appoint such public officers as it thinks fit to be additional inspectors for all or any of the purposes of this Act."

So, if this power had been limited to factory inspectors who know everything and are competent to deal with everything, it would not have been

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

harmful. But as this power may be given to all sorts of officials and not officials as additional inspectors, we are afraid that they may go to a fact at a very unusual hour and demand the registers located in the office. It will be very difficult for the management to get the offices opened for the inspection of registers at an unusual hour. Factories are working for 24 hours and every inspector would be welcome to examine anything he likes. So far as the register of attendance is concerned it is always kept at the gate with the time-keeper; from that register the number of men employed in each shift can be known and he can examine whether they are working properly or not. But the examination of all the detailed registers at an unusual hour would certainly put a great hardship on the management, and if they refuse to show them they will incur the displeasure of the inspector who may prosecute the factory and they may be fined Rs. 500 to Rs. 1,000. Therefore when the factory office hours are the usual hours of 10 A.M. to 4 or 5 P.M., the inspector ought to come within those hours, when the whole staff is available. I therefore hope the Government will accept this amendment.

THE HONOURABLE MR. D. G. MITCHELL: Sir, Government cannot accept this amendment. Its effect would be to deprive the inspector of the opportunity of making what is really the most valuable type of inspection. Suppose, for instance, the working hours of a factory are 7 A.M. to 5 P.M. and the inspector suspects that people are being employed outside working hours, the proper time to go to that factory is about ten minutes past five o'clock—

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I am talking only of examination of registers, not about the examination of factory precincts.

THE HONOURABLE MR. D. G. MITCHELL: The section as amended by the Honourable Member would read that

“The inspector may make such examination of the premises and plant and of any prescribed registers during working hours.”

In any case the examination of these registers will be an essential part in checking whether or not the factory is employing workmen outside hours. Again, suppose he started an investigation within working hours; must he stop work and leave the completion of his inspection till the next day, thereby giving the manager an opportunity of putting the registers into proper order? I think the Honourable Member might very well remember that inspectors are just as human as he is. They like to have their evenings to themselves and to get to bed at a reasonable hour. He should also remember that they are subject to discipline like all Government servants, and if any inspector should abuse his powers in this respect he would certainly be subject to check by higher authority.

THE HONOURABLE THE PRESIDENT: Amendment moved:

“That in sub-clause (b) of clause 11, after the word ‘registers’ the words ‘during working hours’ be inserted.”

The Question is:

“That that amendment be made.”

The Motion was negatived.

Clause 11 was added to the Bill.

Clauses 12, 13 and 14 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The Question is:

“That clause 15 stand part of the Bill.”

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, I move:

“That in sub-clause (3) of clause 15, for the words ‘specifying the measures which in his opinion should be adopted’ the words ‘that effective measures shall be taken’ be substituted.”

Sir, the object of this amendment is not in any way to defeat the object of the section. The question is whether these inspectors will be satisfied with certain measures which the factories would adopt for removing the defects so far as health and safety are concerned by the technical men employed in the factories or they will specify themselves. Sir, all the inspectors will not be competent to prescribe measures for cleanliness, health and safety. If this had been limited to medical officers alone, I would have understood the position. As it implies that all the inspectors and the additional inspectors will be very competent to prescribe such technical things I cannot agree with the words of the clause. I think it would be better if the words

“specifying the measures which in his opinion should be adopted” are substituted by the words “that effective measures shall be taken”.

Sir, we all know that if inspectors and additional inspectors are to prescribe the measures, it will become very costly for the factories or it may not be possible for the management of the factory to carry out the work in the period fixed by the inspector, but once the management files an appeal against the orders of the inspector, they will always be harassed by him and the feelings will be bitter between the inspectors, additional inspectors and the management of the factory. Therefore if this technical matter is to be left for technical men in the factory, it will be both in the interests of the factory and the object will be served. Therefore I move this amendment.

THE HONOURABLE MR. D. G. MITCHELL: Sir, I gather from the Honourable Member that an inspector is unable to tell when water is dirty, but that the employer of a factory is eminently qualified to do so. There is a contrast between the procedure proposed in the Bill and the procedure which the Honourable Member proposes. The procedure in the Bill is clear and I trust satisfactory. The procedure proposed by the Honourable Member will drag on interminably and will probably involve the unfortunate employer in legal costs exceeding the cost of the measures which he is requested to take. The Honourable Member proposes that the notice served on the manager of the factory should merely require him to take effective measures. Suppose he does not?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: He will be prosecuted.

THE HONOURABLE MR. D. G. MITCHELL: And what will be the result? Whether or not the measure is effective is a practical thing to be decided on the

[Mr. D. G. Mitchell.]

spot by people who know about it and who will see the evidence. If the amendment is adopted, then in any case where the inspector is not satisfied with measures taken, he can only prosecute, and the practical issue of whether the measures taken are adequate or not will have to be decided in court largely on oral evidence. The trial will spin out indefinitely and will be very costly. If, however, the procedure proposed in the Bill is adopted, all that is required is that the inspector should see if his proposals have been carried out or not. If they are not, then he files a prosecution on the straightforward issue whether the proposals have been carried out or not. I put it to this House that this amendment is ill-conceived and will land employers and managers of factories in greater trouble than the procedure proposed in the Bill.

THE HONOURABLE MR. HOSSAIN IMAM : In what class of factories is this artificial humidification required ?

THE HONOURABLE MR. D. G. MITCHELL : I understand mostly in cotton textile factories.

THE HONOURABLE MR. HOSSAIN IMAM : That was my impression too. It is not generally applicable to all factories.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : What about sugar factories ?

THE HONOURABLE MR. D. G. MITCHELL : The Honourable Member is in a position to give more information on that subject than I can.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That in sub-clause (3) of clause 15, for the words ‘ specifying the measures which in his opinion should be adopted ’ the words ‘ that effective measures shall be taken ’ be substituted. ”

The Question is :

“ That that amendment be made. ”

The Motion was negatived.

Clause 15 was added to the Bill.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I do not wish to move the next amendment which is a similar one.

Clause 16 was added to the Bill.

Clauses 17 to 32 were added to the Bill.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU : Sir, I have considered the matter in the light of the remarks made in this Council—

THE HONOURABLE THE PRESIDENT : If you are going to withdraw, you are not entitled to make a speech.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU : I do not wish to move my amendment.

Clause 33 was added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 34 stand part of the Bill. ”

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU : Sir, I move :

“That in clause 34 for the word ‘ fifty-four ’ the word ‘ forty-eight ’ be substituted.”

“That in clause 34, for the word ‘ sixty ’ the word ‘ fifty-four ’ be substituted.”

The case against this amendment has been put forward with great eloquence by Sir Phiroze Sethna, but may I respectfully put the case for this amendment also before the House? India as we know is an exceptionally hot country and a man gets tired very soon. I do a certain amount of mental work myself and after four or five hours of hard work, my mind refuses to work and I cannot work at all. If that is so with mental work, what must be the case with manual work, work which involves work in factories? Then, Sir, you have to consider the effect that these long hours have on the health and the body of a people who are under-nourished and whose diet is not really what diet ought to be. It is said that these long hours do not really matter because discipline is lax in Indian factories. The question that I should like to put is why is discipline lax in Indian factories? Is it not a fact that discipline is lax in Indian factories because the hours are long? If you reduce the hours you may be able to enforce a rigid standard of discipline. Then, Sir, it is said that there is no over-production here. Well, that means that you are all the time thinking in terms of profits. Take, for example, the great experiment which is being carried on in America. President Roosevelt has reduced the hours of work and increased the wages. And here, Sir, I would submit that the question is primarily a humanitarian one. We cannot place profits before humanity. We must place humanity before profits and it is from this point of view that I would ask the House to approach this question. Then, Sir, there is another point of view and it is this. We are giving protection to our industrialists. Now we are living in a world of tariffs, of import quotas and I recognise it is not possible for a man to be an orthodox free trader. I do not grudge the protection which our industrialists are getting. But if you are protecting our industrialists, you must also protect our workers, who also have a right to protection. And if you will be fair to your workers, if you will be considerate towards them, they will also be loyal towards you. That is the point which I would earnestly ask the employers of labour to consider.

Then it is said we have Japanese competition and Japan is dumping cheap goods in the Indian market and there are no restrictions of hours in Japan. Well, Sir, the answer to that is, if you follow this argument to its logical conclusion and if you want to beat Japan, do not have any hours at all. You will be able to compete with Japan successfully when you copy Japan in the methods she is pursuing. But you cannot copy Japan in those methods because you think that those methods are not right. Therefore, Sir, there are certain moral values for which we have to stand and it is for these reasons that I would ask the House to accept my amendment.

The Honourable Sir Frank Noyce told us that the Labour Commission had decided against this amendment. Now, Sir, the position is that the majority of the Labour Commissioners were against it, not the minority which was headed by my respected friend, Mr. Joshi. The minority suggested this change and they went carefully into the matter and they thought that it would have no effect

[Pandit Prakash Narain Sapru.]

either on the wages of the worker or the productive capacity of the mill. You say, if you reduce hours, wages will go down. Well, I do not think this will happen. Employers always say this. I have no doubt that the worker will be able to successfully resist a cut in wages. The point is that I put this amendment on humanitarian grounds and I would ask this House to show its sympathy with the ordinary factory labourer by passing this amendment.

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal: Nominated Non-Official): Sir, I only want to inquire from the Honourable Pandit Prakash Narain Sapru whether he wants the hours mentioned in the proviso to clause 34 also to be amended? Otherwise there may be a conflict.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU: Consequential amendments will have to follow.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to oppose the amendment. As I have given my reasons for it already and as my Honourable friend Sir Phiroze Sethna has given very substantial reasons for its rejection, I do not want to dwell much on it, but as my Honourable friend Pandit Prakash Narain Sapru has moved this amendment on humanitarian grounds I want to say that employers can only employ labour if they can make a profit. If there is no profit employers will not employ labour and we know that at present the question of unemployment is very acute and so far if no efficient solution has been found I wish that labourers might be paid more and they might work less but after all how is it to be done? We must proceed practically. We want Indian industries to thrive and they cannot thrive if so many restrictions are imposed upon them. The price of the manufactured cotton product is not in the hands of the employer. We have to watch world-wide prices and then arrange our prices. If we were the dictators of our own prices as employers of labour we would not mind any sort of restriction but as long as we have to compete in the world market and even when the efforts of the Government of India to raise prices have not succeeded so far, I think that this amendment is inopportune. We ought not to follow the humanitarian ground in case it is not practicable. To me it seems that in this Bill we are only protecting the labourers and not their employers.

THE HONOURABLE SRIJUT HERAMBA PRASAD BARUA (Assam: Non-Muhammadan): Sir, I rise to oppose this amendment. This Bill is based on the recommendations of the Royal Commission on Labour who arrived at their conclusions after taking all the evidence available in the country in all the industrial and labour centres and after taking all the facts into consideration, having all the while due regard to the circumstances obtaining in the country. Then again, it has emerged from a select committee where it was gone through very carefully and very thoroughly. Now, Sir, my friend, the Honourable Pandit Prakash Narain Sapru, has come forward with an amendment to reduce the working period to 48 hours a week in the case of the perennial factories and to 54 hours a week in the case of the seasonal factories. In the case of the perennial factories, it has been asserted, 54 hours a week is too long, that in a hot, enervating climate like that of India, 54 hours a week will

bring about fatigue and ultimate breakdown in the health of labour. Was not this fact taken note of by the Royal Commission? Why, a minority of three dissenting members, Messrs. Cliff, Joshi and Chamanlal even distinctly wanted a 48-hour week. And what then? In spite of this, the remaining seven members of the Commission thought that 54 hours a week would be very fair and adequate both for the employed as well as for the employer. Analogies have been drawn from the highly industrialised countries of the west. It is stated that they work for 48 hours a week. It is well and good. But is the analogy a happy one? Conditions in India are vastly different from those obtaining in those highly industrialised countries of the west. Indian labour, at present, is not as efficient as those of the west. They do not approximate themselves as nearly to the western standard of discipline. The Royal Commission have examined the subject most scrutinisingly and examined it most thoroughly. And what do they say in their Report? They say:

“The introduction of the lower limit would involve a change of hours in the great majority of the perennial factories and it would mean a very heavy reduction in the factories now working 60 hours. Many operatives would have to face large reductions in their earnings and, while we do not doubt that part of this loss would be made good before long, we are not convinced that the operatives as a whole are in a position to regain their old standard in any reasonable short period. From the point of view of industry, the employer is entitled to claim that, until the worker is ready to approximate more nearly to western standards of discipline, it is unreasonable to attempt an eight-hour day, and even an eight and a half hour day would involve an amount of dislocation that would be serious”.

The western standard is quite different and for the time being cannot bear analogy to the standard in India. The Royal Commission on Labour took stock of all that. It is a fact that as far back as 1921 the Washington Convention accepted eight hours a day for workers. Was not this fact then known to the Royal Commission who investigated into the same subject in India 10 years later? Did they not take all this into account? They were all capable, experienced and disinterested people, the best that the United Kingdom and India could put up and the most competent that His Majesty's Government could think of and presided by no less a person than Mr. Whitley, the once famous Speaker of the House of Commons. And what was their verdict on the subject? Their verdict was that the working hours should be fixed at 54 hours a week. And they pronounced this verdict after they had visited all the industrial centres of India, after they had visited the various labour centres of the country and after they had collected and very carefully considered all the materials on the subject, both for and against.

Sir, the labour in the west belong to highly industrialised countries. India is an agricultural country and the industries over here are only in the making and developing. These countries of the west are seriously faced with the problem of over production and consequent glut in the world markets. Various devices have been resorted to in these countries to cut down over-production and short hours is one of those principal devices. India, on the other hand, cannot produce her own demands. The Bill has already cut down the working hours in the factories and reduced them from 60 hours a week to 54 hours a week. This should not be grudged by the employers and the Employers' Federation of India has accepted the 54-hour week. This is in the best mutual interests of

[Srijut Heramba Prosad Barua.]

the employed and employer and effectively satisfies the requirements of a progressive legislation in the country. But to cut down the working hours further to 48 hours a week will be nothing short of cramping the industrial development of the country and make the industries of countries outside India like Japan thrive and prosper at the cost of India. So, when we think of improving the condition of labour, we must not forget the development of our industries upon which the prosperity of the country so much depends. Labour and industry must mutually exist for each other and labour certainly cannot benefit at the cost of industries. Further, present economic conditions do not warrant reduction of working hours from 54 hours to 48 hours a week. To cut down the working hours more will be an unreasonable demand made on the employers, and for the matter of that, on the industries.

Next, Sir, I turn to the seasonal factories. Here again my friend, the Honourable Mr. Sapru, has sought to reduce the working hours from 60 hours a week to 54 hours a week. Sir, I do not know much of the other seasonal factories. Coming as I do from the tea districts of Assam, I presume to have some direct knowledge of the tea industry and the conditions obtaining in a tea factory. Tea is more an agricultural than an industrial produce. Seventy-five per cent. of its operations is agricultural and only 25 per cent. industrial. I may say that only the finish is given in a factory for garnering after the tea crop is harvested. A tea factory is a seasonal factory. It works for less than six months in the year. For the first four months of the year a tea factory is absolutely closed. The tea bushes are cut down or pruned as it is called and purely agricultural operations are carried on for these four months, such as cultivation, manuring, draining, and the like, and there is no leaf for manufacture in a factory in these few months. Then come the spring showers and with them the shoots out of the pruned bushes and some sort of a plucking is done which is known as tipping. Then comes plucking from time to time, say two or three days in a week till the bushes have given sufficient shoots for plucking and this covers a period of four months. During this time, factories are run for less than half the working hours of the day and then again very often on alternate days.

THE HONOURABLE THE PRESIDENT : I am afraid you are not discussing the Bill. Please confine yourself to the amendment before the House.

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA : I am just explaining the condition obtaining in the tea factories, Sir. I am going to be rather brief.

THE HONOURABLE THE PRESIDENT : That would have been an appropriate speech this morning, but not now.

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA : Tea is a peculiar commodity, Sir. If its harvesting is put off for a day or two, the quality will greatly deteriorate. So the plucking could not be put off, and the manufacture could not be put off, and the manufacture has to be done after about 18 to 20 hours of its plucking. There is a rush of leaves during the last four months of the year and it is at this time that the labour has to work for nine to ten hours a day. If, during this period, the working hours are

reduced from 60 to 54 hours a week, it will put a great strain on the industry and bring about its ruin in the near future. The tea industry in the Dutch East Indies where the climatic conditions permit plucking and manufacture throughout the year will find it very easy to kill the Indian tea industry by ousting it from the market in no time. Further, such a measure is absolutely unwarranted by the fact that the Indian tea industry has barely emerged from a crisis the like of it had never before. It was only in June, 1932, that this Honourable House passed legislation for the control of tea export from India to save this major industry from utter ruin.

THE HONOURABLE THE PRESIDENT: All this is superfluous. I must ask the Honourable Member to confine himself to the amendment before the House.

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA: It has been said that reduced hours will give work to the unemployed. There is no unemployed amongst the tea garden employeess. The tea industry has been all along suffering from inadequate labour. There is strong competition among employers to secure more labour and the workers invariably profit by this competition. The short hours will do good neither to the employer nor to the employee and for the extra work he does, he makes an extra earning which he considers to be a form of commission, and which goes to make his wages quite decent and economic.

Sir, with these words, I oppose the amendment.

THE HONOURABLE SIR GHULAM HUSAIN HIDAYATALLAH (Bombay: Nominated Non-Official): Sir, I will not take up much of the time of the House. We have heard the Leader of the Opposition who admits that he is an industrialist, and he has placed the case of the factory owners before us. Behind him is sitting my young friend, the Honourable Pandit Prakash Narain Sapru who, if I may say so, is a member of his Party. He has placed before us the case of labour.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I may say that we have not made this a party question.

THE HONOURABLE SIR GHULAM HUSAIN HIDAYATALLAH: When it suits us, we never make it! That shows that in the same party there is divergence of opinion. It is for this Honourable House to consider this question and weigh the pros and cons. We have to hold the scales even between capital and labour. I need not repeat the various arguments that have been already advanced against this amendment. I will only say that we should not be humanitarian and generous at the cost of some one else. Neither industry nor labour can prosper without mutual goodwill and mutual co-operation. The figure 54 was arrived at by the Royal Commission after careful consideration, and the hours have been reduced from 60 to 54. The Member in charge has clearly told the House that this is merely the first instalment of reform. After some time, if circumstances change, we may hereafter reduce still further the number of hours.

With these remarks, Sir, I resume my seat.

*THE HONOURABLE MR. HOSSAIN IMAM : Sir, in every living organization we always find strife and that proves only that it is a live organization and not a dead body. We know that in the Government there was very recently a difference of opinion in the Executive Council itself and we know how it was composed. So much for the differences among us.

I find in this question of the hours of work there is an alliance, holy or unholy, between Government and the employers of labour. Industrialists first of all in the Royal Commission took up the attitude that the hours should not be reduced from 60. The labour leaders wanted 48 hours a week. The Government by a process of subtraction and division by two came to the conclusion that 54 hours was what they should support. By this course it cannot be said of course that the Government sided with one or the other. But it was open to Government to do something more for ameliorating the conditions of labour, either by not exactly dividing the difference thus or by bringing in this measure a good deal earlier. The Labour Commission reported in 1930 and four years have been wasted. In factories where work is continuous we find that 54-hour shifts are very inconvenient. The factories are working 144 hours in the week, and that has to be divided into shifts and you cannot exactly divide that by 54 hours. The usual practice in all factories working continuously is to have a 48-hour week and to have 8 hour shifts ; so that even industrialists realize that it is better to have the 8-hour shift rather than the 9-hour shift which Government is placing before us. Not only does the 54-hour week make it difficult to apportion the shifts, but that directly affects the expansion of industry. If we had 48 hour shifts the production of units would be reduced by one-ninth ; so that the same amount of goods which is now produced by eight factories would require nine factories if 48-hour shifts were adopted, and we would thereby give more employment to more people. Take the textile industry. We are aware that it is passing through a very difficult time ; but does the House realise that there are any number of mills which are lying idle and there are on the other hand mills which are working overtime and working under pressure. Sir, the one principle which seems to have been forgotten by this House is that the increase in the consumer's purchasing power is a great asset which directly contributes to increased prosperity. When you stop the velocity of money by restricting it in a few hands, you are thereby stopping the expansion of trade. I think the position in America sufficiently indicates that the times now require more liberal and radical steps being taken to counteract the influence of the trade depression. We are still in the rut and we still think that what was regarded as good economics in the Eighties and Nineties is applicable to the present year of grace 1934. In America we find that hours of work have been reduced, while wages have advanced. They are no doubt making a huge experiment and you cannot say that it is an accomplished fact. But if we cannot do things on the same grand scale I see no harm if the Government had taken a modest step of introducing a 48-hour week as a step in advance in order to see how it reacts on the prosperity and purchasing power of the people. Sir, in the discussion on the 48-hour week in the other House every elected Member supported this measure. That, Sir, in itself goes to show which way the wind blows. But in this House—

* Speech not corrected by the Honourable Member.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Which way the wind blows?

THE HONOURABLE MR. HOSSAIN IMAM: Yes.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: Election way! (Laughter.)

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the only argument which has been advanced by the Government was that the industries are not prepared for it. May I ask them, when we consumers are asked to pay for their sustenance by subjecting ourselves to increasing burdens of taxation in the shape of protection duties, do they think of what may happen to the consumers? Then they are all for their own interests. The industries must be supported because they are national industries. But national industries must behave in a national manner. We do not wish them to give *largesse*; we wish them to do only justice. It is not that it is impossible for the industrialists to give us shorter hours. Because, Sir, for most of the industries we have passed safeguarding Acts, simply on the bare fact that they came before the Government, a hurried look into the industry was made and it was decided that it should be supported. Take the case of the textile industry. There the Tariff Board Report went by the board, and on the strength of the Mody-Lees Pact and the Indo-Japanese Agreement the basis was formed. There we supported a national industry. We find that on account of the decrease in the price of foodstuffs, even if there is a little reduction in the wages, it could not decrease the real purchasing power, and as far as I have been able to find out the industries have taken advantage of the reduced prices of commodities. There are honourable exceptions no doubt. In most of the industries the wages have gone down already. We are already suffering from reduced wages. If you reduce wages, you at once place the industry not in a position to dictate terms to labour, but in a position of equality, because more men have to be employed to produce the same quantity of goods, and by increasing the demand for labour you at once put them at a premium and not in a disadvantageous position. I therefore feel no reason why this amendment should not be acceptable to the Government and why it should be opposed.

THE HONOURABLE MR. D. G. MITCHELL: Sir, the fact that my Honourable friend, Pandit Prakash Narain Sapru, has moved this amendment after listening to the course of the debate in the House this morning, in which the opinion of the House was very clearly brought out, is a great tribute to the strength of his convictions; but I would suggest to him that his decision to press the amendment was made after four or five hours of hard work, after industrial fatigue had set in. This suggestion is strengthened by his not very happy reference to the strong emergency measures taken in America in regard to which I can only say that I sincerely hope that India will never be in a position to require such measures. The Honourable Pandit Prakash Narain Sapru referred to the greater liability to industrial fatigue of workers in India and he also mentioned the serious lack of discipline in the way of attendance at actual work in mills in India. I would point out to him that these were matters which were considered in very great detail indeed by the Royal Commission on Labour, but notwithstanding that they came to the considered decision that not the 48 hour week should be adopted but the 54. I have very little to add on

{Mr. D. G. Mitchell.]

the general question to what has already been said by other Members of the House, and in particular, with great cogency by the Honourable Sir Phiroze Sethna. I would only select from the Honourable Mr. Hossain Imam's somewhat astonishing essay in political economy one particular point, *viz.*, that if you reduce working hours from nine hours to eight hours a day, then instead of eight factories, nine factories will be required to produce the goods and therefore the industry will expand; in other words, the expansion will occur not in production of extra goods, but in the building of another factory and the imposition on the industry of overhead charges, for plant, buildings, depreciation, interest, manager's salaries, directors' fees and such like. If he regards that as an expansion of the industry, then I suggest to him that he should think over the subject again and come to the conclusion that the proper thing to do is to increase the hours of employment and reduce the number of factories which would produce the same quantity of goods.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That in clause 34, for the word 'fifty-four' the word 'forty-eight' be substituted."

"That in clause 34, for the word 'sixty' the word 'fifty-four' be substituted."

The Question is:

"That that amendment be made."

The Motion was negatived

Clause 34 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 35 stand part of the Bill."

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, I beg to move:

"That item (i) of sub-clause (1)(b) of clause 35 be omitted, and that the brackets and figures '(i)' be deleted."

As Honourable Members are perhaps aware, under section 35 it is required that every Sunday should be declared a holiday and if the manager wants to give a holiday on any other day instead of a Sunday, he is required to deliver a notice in the office of the inspector of his intention to require the worker to work on the Sunday and of the day which is to be substituted for the Sunday. Sir, I have no quarrel so far as the giving of notice is concerned, but under sub-section (1) (b) he will have to place the notice in the office of the inspector on a previous day for substituting a day and we all know that the offices of the inspector are not very close to the factory. I am speaking from my own personal experience. On some days the workers come to the manager and make a request that they are willing to work on Sunday if they are given a holiday, say, on Monday. Requests like that are made even at the eleventh hour on account of some fair close by, and just to satisfy the workers the manager makes the change. If this sub-section is retained it will not be possible for the manager to substitute any day at the eleventh hour, unless he has given notice to the office of the inspector. The purpose of this is that the inspector should be acquainted with the change of holidays. I have no quarrel on that account;

but if the clause is kept as it is I think this will go against the workers and if they will require any substitution of holidays it will not be possible for the manager to make. Therefore, Sir, it is in the interests of the workers as well as the employers that this should be deleted and there will be absolutely no harm. I therefore commend this Motion to the acceptance of the House.

THE HONOURABLE MR. D. G. MITCHELL: Sir, the feature of the Bill to which the Honourable Member objects has been in the law since 1911 and so far as we are aware it has given rise to no difficulties.

The amendment was, by leave of the Council, withdrawn.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, I beg to move:

"That after sub-clause (3) of clause 35, the following proviso be added, namely:

'Provided that in case of seasonal factories, holidays will be given once a fortnight in the manner prescribed on condition that the workers will not have to work for more than fifty-six hours a week.'

Sir, the conditions in seasonal factories are quite different from those in factories which work for the whole year. They work for a particular period in which they get raw materials and therefore they never work for more than six months. Every day for them is very precious. So far as the workers are concerned, they have also to pay much more wages than the factories which work all the year round because the workers think that whatever they can get is only for the season the factory is working. They will be unemployed for the rest of the season. So, Sir, the owners of the seasonal factories give more wages to their workers on account of the short period they employ them and they want to utilise every day possible in the season. My amendment refers only to the seasonal factories. Under section 34, the workers in a seasonal factory are allowed to work up to 60 hours a week. In this proviso I have reduced the 60 to 56 if a particular seasonal factory wants to give a holiday, once a fortnight instead of once a week. The difference is only of four hours in a fortnight. If they work for a full week and work for 60 hours, they will get a holiday on Sundays. If they work for two weeks and they get holiday for a day and work for 56 hours they will be the loser of only four hours in two weeks. Therefore, Sir, this amendment will help the seasonal factories very much and will not harm the workers. The question is only one of four hours in a fortnight. I therefore commend this amendment to the House and hope the Government will accept it.

THE HONOURABLE MR. D. G. MITCHELL: Sir, the Honourable Member points out that seasonal factories work in a hurry. For that reason he proposes to reduce working hours in the working week from 60 hours to 56 hours. I am unable to understand how the reduction will help these factories to work faster?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: They will get one full day.

THE HONOURABLE MR. D. G. MITCHELL: In that case, during one week of the fortnight they will work for eight hours a day. The Bill proposes

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to allow, as you will see, 11 hours a day. Sir, the amendment would be revolutionary. We could not possibly accept a 56-hour week in a seasonal factory without consulting the whole of the industry concerned. I oppose the amendment.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That after sub-clause (3) of clause 35, the following proviso be added, namely :

'Provided that in case of seasonal factories, holiday will be given once a fortnight in the manner prescribed on condition that the workers will not have to work for more than fifty-six hours a week.'

The Question is :

"That that amendment be made."

The Motion was negatived.

Clause 35 was added to the Bill.

Clauses 36 to 59 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 60 stand part of the Bill."

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, I beg to move :

"That in clause 60, for the words 'five hundred' the words 'two hundred' be substituted."

Sir, by moving this amendment I want to reduce the maximum fine from Rs. 500 to Rs. 200 in the case of the factories going against the instructions of the inspectors. Sir, under this Act, as I have read, numerous instructions are to be sent to the factory inspectors for every change that is made in the factory as well as many things about the daily working of the factory. It is just possible that in the rush of work the manager may forget to send these instructions to the inspector who can prosecute the factory and the factory manager will be liable to a fine up to Rs. 500 for his unintentional neglect. Now, Sir, there is one argument that will be placed against this. How is it supposed that he will be fined the maximum, that is Rs. 500? He may be fined, say, Rs. 2. To that argument I must say, Sir, that the case will go to the magistrate and I do not know for what reasons but I find in daily life that heavy fines are always inflicted by the magistrate.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Why?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : It may be due to some instruction from the Government or it may be possible they want to please the Government because more money is brought into the coffers of the Government.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : To save the labourers.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I beg to differ from the view that is taken by the Leader of the House. But I am sure, and I hope many Members of the House will agree,

that heavy fines are inflicted by the magistrates in these days and therefore the chances are that for this unintentional neglect the manager will be fined heavily. I therefore move this amendment and hope it will find acceptance of the House.

*THE HONOURABLE MR. D. G. MITCHELL: Sir, this provision appears in the old Act of 1911. In the very voluminous papers I have read connected with this Bill, I have seen many complaints from responsible people that the fines inflicted are on the average very, very much too low. I have seen no reported complaint that the fines are too heavy. I would point out, Sir, that some of the offences may be very serious indeed—employment of women and children over hours and matters of that sort, which may mean considerable improper gain to the employer, and may be very serious so far as the children and women are concerned. For offences of that kind a fine of Rs. 200 is insufficient. Sir, I oppose the amendment.

THE HONOURABLE THE PRESIDENT: Amendment moved:

“That in clause 60, for the words ‘five hundred’ the words ‘two hundred’ be substituted.”

The Question is:

“That that amendment be made.”

The Motion was negatived.

Clause 60 was added to the Bill.

THE HONOURABLE THE PRESIDENT: I suppose that in view of this decision, just pronounced by the House, you will not press your amendments Nos. 7, 8 and 9 on clause 61.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I will not move them.

Clause 61 was added to the Bill.

Clauses 62 to 73 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The Question is:

“That clause 74 stand part of the Bill.”

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, I beg to move:

“That after sub-clause (2) of clause 74, the following proviso be added, namely:

‘Provided that factories registered under Co-operative Societies Act, II of 1912, shall be liable for trial under the same Act and the rules framed there-under’.”

Sir, this amendment of mine is simply in the interests of the factories that are working and are registered under the Co-operative Societies Act. We all know that they are very few in India. They are meant for the benefit of the poor agriculturist who are members of these factories. The intention of these factories is never to earn high profits and declare high dividends, as is the case with other factories. So much so, that the dividend is limited under the Act. Not more than 10 per cent. dividend can be declared by these factories. They cannot go beyond that without exemption from Government. The

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

object of these factories is simply to give as much advantage as possible to the agriculturist. Most of them are managed by non-official workers who do not get anything out of them. They merely work for the sake of their own countrymen and the agriculturist. Under this Act numerous instructions will have to be sent by them to the inspectors. You cannot expect an honorary worker to do as much as is required under this Act and supply every information to the inspector. Therefore, if this information is not sent to the inspector they can be prosecuted under the Act and tried by the magistrate who may impose as high a fine as Rs. 500 in the first instance, Rs. 750 in the second instance, and so on. Under the Co-operative Societies Act, all the disputes in the factory are tried and decided by the Registrar in arbitration. They are exempted from the Stamp Act and court-fees. All this Government has done because they have been established for the benefit of the agriculturist. If this proviso were not added, I am afraid the workers will not come forward to manage these factories because they will always be afraid of the penalty clauses. I would therefore request the Government to accept this amendment. If they have given so many facilities to these factories, they may as well give this one also. If this proviso is inserted in the Act, we can prevail upon the honorary workers that their case will be tried by the Registrar in the way they are being tried now and laid down in the Co-operative Societies Act, II of 1912. I would therefore request the Government to accept this amendment in the interests of the agriculturist.

THE HONOURABLE MR. D. G. MITCHELL: Sir, I am sure the House is in full sympathy with the eloquent sentiments voiced by the Honourable Member. I myself would like to do as much as I possibly can to help co-operative societies, but to that end, I would not accept this amendment. It does not serve the purpose the Honourable Member has in view. In the first place, under the Co-operative Societies Act, there is no provision for a trial. In the second place, this Co-operative Societies Act mentions only one penalty, and that is, death. The only procedure contemplated by the Act is an investigation by the Registrar and the winding up and dissolution of the society. I presume the Honourable Member would not like that a society composed of many innocent and respectable agriculturists should be dissolved because the manager has made a slip under the Factories Act.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That after sub-clause (2) of clause 74, the following proviso be added, namely:

'Provided that factories registered under Co-operative Societies Act, II of 1912, shall be liable for trial under the same Act and the rules framed thereunder.'

The Question is:

"That that amendment be made.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I press this to a division, Sir,

THE HONOURABLE THE PRESIDENT: Are you really serious?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Yes, Sir.

THE HONOURABLE THE PRESIDENT: I noticed that except your voice there was no other voice supporting you, and I think the request for a division is frivolous.

The Motion was negatived.

Clause 74 was added to the Bill.

Clauses 75 to 82 were added to the Bill.

Schedule I was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. D. G. MITCHELL: Sir, I move:

“That the Bill, as passed by the Legislative Assembly, be passed.”

I would like to express on behalf of Sir Frank Noyce his great regret at being unable to be here at the Third Reading of the Bill. He is unavoidably detained in the other House. In conclusion I can only compliment my Honourable friends opposite for their gallant efforts in many a hopeless cause, and thank other Honourable Members for their support of the Bill.

THE HONOURABLE MR. F. MILLER (Bombay Chamber of Commerce): Sir, I am sorry to speak at this late hour but I promise not to detain the House more than five minutes. The Bill as now passed is satisfactory and I congratulate the Government in having put through this Bill. The difficulty is, however, I think to ensure that the Act is properly and fairly administered and I understand there have been instances of distinct hardship and harassment occurring in various provinces from time to time. I should like if you will permit me, Sir, to quote only one, of which an account appeared recently in the *Calcutta Weekly Notes*.

The case I am referring to is that of Superintendent and Remembrancer of Legal Affairs, Bengal, v. H. E. Watson, Director of the *Statesman* Printing Press. The Government's case is that an inspector under the Factories Act came to the *Statesman* offices at 9-30 a.m. on a Sunday morning in the middle of the last Puja holidays in Calcutta and was unable to see the employment register. He inspected the premises again four days later, that was on the 19th October last which was a gazetted holiday, and was shewn the register. On both occasions he was shewn the time sheets. One of the irregularities of which the inspector complained was that the data required had not been included in the register prescribed by the Act. It was explained to the inspector that these time sheets which he had been shewn were intended to supplement the employment register as the forms of register provided in the Act were unsuitable to the conditions of employment in a newspaper office where 14 shifts were sometimes worked.

As a result of this explanation, I understand the inspector was there and then informed that the system of maintaining registers had been approved by Mr. Adams, the then Chief Inspector of Factories, in whose opinion the keeping of the employment register and using the same in conjunction with the time sheet was sufficient compliance with the provisions of the Act and that this system had been in vogue without any objection from the authorities concerned for the past ten years. The Crown admitted that this information was given, and what was more they did not deny that it was true.

[Mr. E. Miller.]

The second complaint, seriously put forward, was that the register on the 19th October was not up to date; and technically it certainly was not, for it had been duly written up to the 17th only while the 18th and 19th were gazetted holidays.

The third point was that Government complained that certain employees in the Advertisement section of the paper—in regard to some of whom it may be noted that the authorities were admittedly themselves doubtful as to whether the Act applied at all, but Government prosecuted none the less—had worked longer than the prescribed hours.

For these alleged transgressions the authorities decided to prosecute, choosing as the accused Mr. H. E. Watson, Director, *Statesman* Printing Press.

Now we come to the important part of this story of a reckless and irresponsible prosecution.

On the 24th October last, the inspector wrote to the *Statesman* setting out the alleged infractions of the law. The *Statesman* immediately replied saying that the irregularities complained of had been put right, setting out their views of what the Act really meant and requesting guidance as to whether the inspector agreed with their views. This letter was not even acknowledged and the proceedings were initiated. The charges were thrown out by the Chief Presidency Magistrate and one would have thought that the authorities would have been only too glad to let the matter drop. But no, the Government appealed to the High Court and instructed the Deputy Legal Remembrancer to *press every charge and to admit nothing*. During these further proceedings the authorities did not deny that the method of register and time sheet used by the *Statesman* had been accepted for the past ten years, but they argued that they were not bound, as the sanction was not in writing.

Finally another amazing fact emerged from the case. His Lordship Judge McNair during the hearing of the case asked for a copy of the rules framed under the Act and he was supplied with a copy which contained many marginal notes, presumably by some member of the department. His Lordship suggested that a clean copy might be supplied and was informed that both the Act and the rules framed under it were out of print and could not be obtained even by a factory which is governed by its provisions. It was gathered that the Government were unwilling to incur the expense of reprinting the Act.

Now this seems a scandalous position in that a factory owner wishing to study the rules by which he is bound and for breach whereof he may be prosecuted, cannot obtain a copy of them on application.

I may say that the appeal failed but that does not get away from the fact that Mr. Watson and other *Statesman* officials were unnecessarily harassed and the whole attitude of the authorities throughout was most reprehensible; in fact in the words of the learned Judge the prosecution was one which "should never have been launched".

I submit, therefore, that in the light of this and other instances that could be quoted, Government should take such steps as may be necessary to ensure that the Act is properly administered in all cases and that the rules are

administered properly and fairly by the authorities concerned. First of all, it is essential that no Act or rules framed under it, so long as the Act may be in force, shall be permitted to go out of print, and that copies will always be available on application. I believe that in America it is customary for the authorities to issue with an Act and its rules, a small explanatory pamphlet clarifying the intention of any point that seems necessary, and I commend this and my other remarks to the consideration of Government, with a view to taking up this question of proper administration with Provincial Governments.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, at this last stage of the Bill I simply want to say that this Bill will very likely retard the industrial progress of India. That is my prophecy and I think time will prove whether I am right or wrong. Sir, as this Bill is soon going to be passed, I want the Government to give due and legitimate protection to employers. The policy of the Government towards industries requires a favourable attitude. I wish that the surcharge on coal should be immediately done away with and also the surcharges on income and import duties withdrawn.

THE HONOURABLE THE PRESIDENT : The Bill has nothing to do with surcharges:

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Well, Sir, with these remarks I resume my seat.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, I have

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very few observations to offer. I am in general sympathy with the main principles of this Bill and I think it is a Bill upon which the Department of Industries can well be congratulated by progressive Indian opinion. It incorporates many of the recommendations of that highly useful Commission, the Whitley Commission, which made an excellent and exhaustive report, a report which is useful for all workers in the cause of social welfare. Today, Sir, we have few who object to State interference in industry. The days of *laissez faire* are over. Speaking for myself, I have no fear of State intervention. If I have any criticisms to offer, I offer them in no unfriendly spirit. I know the Bill is a compromise measure. If I have any criticisms to offer they are these, that the Bill does not go far enough in certain directions. I should have indeed liked the Bill to go further in certain directions; I have indicated the directions in which I would like the Bill to go further. One of those directions is the reduction of hours. Sir, after all that I have listened to, I remain convinced that efficiency of labour will improve if you shorten hours. If you give a man eight hours, he will work more cheerfully, more joyfully, than if you give him work for nine or ten hours. That is a matter on which we agree to differ. I recognise, however, that the Bill is an improvement even in this respect over existing conditions. One of the things that I notice is that it does not prohibit the employment of women before and just after childbirth. It makes no provision for maternity benefit. I think, Sir, it is not right that we should make women—

THE HONOURABLE THE PRESIDENT: May I remind the Honourable Member that different provinces have already passed legislation for maternity benefits?

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU: What I was saying was that there should have been some provision prohibiting the employment of women before and after confinement.

THE HONOURABLE THE PRESIDENT: That is exactly the point on which legislation has been enacted in the Provincial Legislatures.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU: I do not think that it has been done in the United Provinces. I can only speak with reference to my province. Then I should have liked the Government also—that does not arise strictly out of this Bill—to consider the desirability of proceeding with the recommendations of the Whitley Commission in regard to industrial councils. I will not elaborate that point further. I will leave it at that. Then, speaking for myself, I am not against any of the penal clauses of this Bill. I think we cannot punish too severely breaches or infractions of the law and the rules laid down under the Factories Act. The last observation that I should like to make is that there should have been some provision for the compulsory education of these factory labourers. The Honourable Sir Ghulam Husain Hidayatallah said that this was a matter for the Provincial Councils to consider. After all, health and safety are also provincial matters, yet you find provisions here in regard to health and safety. The point that I am emphasising is that there ought to have been some obligation cast upon the employer to provide education for children between 12 and 15 years. These are all the observations I have to make, and with these observations, I give my hearty support to the main principles of this Bill.

***THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan): Sir, at the Third Reading of a Bill it is not usual to indulge in detailed criticism. That is done at the initial stage. Now, I wish to put forward a few points to correct some of the misapprehensions which might have been created in the minds of my colleagues. In the first place, Sir Frank Noyce in his speech thought when I gave the instance of Tatas starting welfare work before the Act was passed that I was making an indictment. There was no necessity for it. My point was that we find that industries are advancing and one of the ways in which they are advancing without the help of the law was the instance I gave. I gave that as an illustration to show that in one respect the Act has come after action has been taken and in another respect where the Act does not come up to that standard. Sir, no one can deny that Sir Frank Noyce's career as the Member in charge of Industries and Labour has been marked by more pieces of legislation for the benefit of labour than during the time of most of his predecessors. But, Sir, it is only necessary for me to say that if he had advanced, so has the world advanced. Labour was not such a burning question some time ago as it is now. In the second place, it was mentioned by Sir Frank Noyce and followed up by Mr. Mitchell that it was not the right thing to reduce the hours. Sir, Government is usually very conservative—

*Speech not corrected by the Honourable Member.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Not the Liberal Government.

• **THE HONOURABLE MR. HOSSAIN IMAM**: Sir, we have no Liberal Government. His Majesty's Government is neither liberal nor have we got a Liberal Government here. On a famous occasion, the Honourable Sir George Schuster, when the Executive Council was under discussion, said as follows:

"I would like to make an admission at once and that is that we have got to adjust ourselves, the Government must adjust themselves to the changing needs of the times".

When the Railways were under discussion, then the Railway Member admitted that given cheap money it was in their interests that more capital expenditure should be incurred. When we were discussing Pusa, the other day the Honourable Leader of the House pointed out that money was cheap and it was better to spend it; but when we ask that the industries should be increased and more money should be spent on industries, the Honourable Mr. Mitchell takes exception to it and questions my request. Sir, this legislation which has been brought forward has been acclaimed from all sides as an advance. No one has said that it is retrograde. What we have insisted on was that it was not in keeping with the time and I still adhere to that opinion in spite of the facts which have been placed by the supporters of the Bill and by the Government themselves. I have no hesitation in saying that it is a little lacking in advance.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Bill to consolidate and amend the law regulating labour in factories, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 15th August, 1934.