

*Friday,  
22nd March, 1901*

**ABSTRACT OF THE PROCEEDINGS**  
**OF THE**  
**Council of the Governor General of India,**  
**LAWS AND REGULATIONS**

**Vol. XL**

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ABSTRACT OF THE PROCEEDINGS  
OF  
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA:  
ASSEMBLED FOR THE PURPOSE OF MAKING  
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The Council met at Government House, Calcutta, on Friday, the 22nd March, 1901.

PRESENT:

His Excellency Baron Curzon, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Major-General Sir E. H. H. Collen, G.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Sir C. M. Rivaz, K.C.S.I.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Sir E. F.G. Law, K.C.M.G.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Kunwar Sir Harnam Singh, Ahluwalia, K.C.I.E., of Kapurthala.

The Hon'ble Mr. J. Buckingham, C.I.E.

The Hon'ble Mr. H. F. Evans, C.S.I.

The Hon'ble Rai Bahadur B. K. Bose, C.I.E.

The Hon'ble Sir Allan Arthur, Kt.

The Hon'ble Sir A. Wingate, K.C.I.E.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. C. W. Bolton, C.S.I.

The Hon'ble Rai Sri Ram Bahadur.

The Hon'ble Mr. R. P. Ashton.

The Hon'ble Mr. R. H. Henderson.

NATIVE CHRISTIAN ADMINISTRATION OF ESTATES BILL.

The Hon'ble SIR CHARLES RIVAZ moved that the Report of the Select Committee on the Bill further to amend the Administrator General's Act, 1874, be taken into consideration. He said :—"The Bill as introduced was limited to the exemption of Native Christians from the operation of certain provisions of the Administrator General's Act. We now propose, as explained in the Select Committee's Report, to extend this concession to exemption from the provisions of sections 190 and 239 of the Succession Act, and also to give Native Christians the benefit of the Succession Certificates Act."

[*Kunwar Sir Harnam Singh.*] [22ND MARCH, 1901.]

The Hon'ble KUNWAR SIR HARNAM SINGH said :—" My Lord, the Bill which is now before Your Excellency's Council has my fullest measure of sympathy and support. The Indian Christians of all denominations, of whom I am a humble representative, will feel deeply grateful to Your Excellency's Government for the relief which this Bill, when it becomes law, will give to them. Formerly Indian Christians were in every case and under all circumstances obliged to take out probate or letters of administration and pay succession-duty. It was felt by them that this was a substantial grievance. The representatives of deceased Christians had to go through a tedious, troublesome and often ruinously expensive procedure of taking out probate or letters of administration. From all this unnecessary hardship their non-Christian countrymen, however, were perfectly free.

" Indian Christians from various parts of India approached Your Excellency praying for redress and relief from the hardships they suffered, and Your Excellency has very considerably granted their prayer.

" Under the Bill as it originally stood the Indian Christians were only exempted from the provisions of sections 16, 17, 18, 37 and 64 of the Administrator General's Act, 1874; they were not relieved from the necessity of taking out probate or letters of administration and of paying probate-duty in cases covered by sections 187 and 190 of the Indian Succession Act of 1865; that is to say, when a right as executor or legatee under a will, and a right to any part of the property of a person who had died intestate, had to be established in any Court of Justice. I felt it my duty to bring to the notice of the Select Committee, when the original Bill was under consideration, that the relief thus granted was not substantial and adequate, and my Hon'ble friend Mr. Ananda Charlu supported me in my contention.

" My co-religionists, the Indian Christians, approached Your Excellency with two requests :—

' (1) that they may be relieved at as early a date as possible from the undesirable interference of the District Judge and the Administrator General ;

' (2) that they may be placed on the same footing as their non-Christian brethren and fellow-countrymen in regard to the taking out of probate and letters of administration.'

" The original Bill relieved the Indian Christians only from the interference of the Administrator General, but was silent as regards section 239 of Act X of 1865, under which certain powers are conferred upon the District Judge; and it also left untouched sections 187 and 190 of

[22ND MARCH, 1901.] [*Kunwar Sir Harnam Singh.*]

the Indian Succession Act, which sections, however, made all the difference between the law applicable to Indian Christians and their non-Christian countrymen in the matter of taking out of probate and letters of administration. I am glad to acknowledge that my representations in regard to these matters, supported as they were by the able advocacy of Mr. Charlu, have received favourable consideration at the hands of my Hon'ble friend Sir Charles Rivaz and of the members of the Select Committee, and that Your Excellency's Government have thought it expedient to enlarge the original measure. The Bill, as it now stands, will place the Indian Christians practically on the same footing as their non-Christian countrymen in regard to the payment of succession-duties in cases of intestacy.

"The present Bill not only relieves them from the interference of the Administrator General and the District Judge, but also relieves them from the necessity of taking out letters of administration for the whole of the property of persons who have died intestate, by reason of their exemption from the provisions of section 190 of the Succession Act; and they will now also be on the same footing as non-Christians as regards the payment of proportionate duties in contentious cases of intestacy by being brought under the Succession Certificate Act.

"It is true that the Christians are not relieved from the operation of section 187 of the Succession Act; but it must be remembered that in Presidency-towns and in places outside the limits of those towns, in respect to immoveable property situated there, Hindus stand precisely on the same footing in regard to taking out of probate. It is true that Indian Christians living outside the limits of Presidency-towns, and who are not possessed of any immoveable property, will stand on a slightly different footing with regard to probate; but the number of people thus affected is small, and it does not appear to me probable that Christians living in such places and not possessed of any immoveable property would be likely to leave a will. Wills are generally made by the more intelligent and literate classes, who have considerable property to leave, but persons who have no immoveable property at all do not generally belong to that class of society in this country; and if, perchance, there should be a solitary case, where an Indian Christian living outside a Presidency-town dies leaving a will, and only moveable property, there is this fact to be remembered, that the taking out of probate confers upon the heirs a legal status which is after all a distinct advantage.

"My Lord, as the measure is now framed, it gives almost complete relief to the Indian Christians. It would not have given satisfaction if only the

[Kunwar Sir Harnam Singh; Rai Bahadur P. Ananda Charlu.] [22ND MARCH, 1901.]

partial relief originally proposed were granted; but I am happy to say that the question has now been so satisfactorily settled that the Indian Christians cannot but be grateful to Your Excellency. The concessions made are liberal, and I am confident in saying, on behalf of my fellow-Christian countrymen, that they must fully appreciate the present measure, and will gratefully associate Your Excellency's name with it."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"To the remarks of my Hon'ble friend Sir Harnam Singh I wish to add a few words. I am sincerely glad that we are able to grant to my fellow-countrymen of the Native Christian community a substantial relief on a long-standing and keenly-felt grievance. That relief, I must confess, has come to them much sooner and in a larger measure than there was room, at one time, to hope for. It was but about three years ago that I took part in the discussion of the question, when it was, as it were, interpolated by Mr. Rees and Sir Griffiths Evans into a debate on an amendment of the Court-fees Act. The occasion was, however, most inopportune in a sense; for the legislature was then engaged in devising how best to bring into the net certain classes who managed, as it was thought, to keep out of the fiscal meshes. It goes without saying that the time when we were bent upon *extending* the tax was the least propitious for proposals that others who were already, though unwarily, paying it should be let off from the burden. So fully were the legislative energies absorbed by the then purpose that the Finance Member of the day bristled up at once and, with his characteristic penchant for a ready and smart retort, declared that, if it were made a grievance that some classes paid the tax and others did not, he, for one, was prepared to redress the grievance and adjust the inequality by laying the tax on all alike, thus including even those that were exempt for the best of reasons. Hope was, however, held out on behalf of the Government by the Home Member, who said that, in case the Local Governments sent up reasonable proposals, they would be duly and carefully considered. Since then the powerful advocacy of Mr. Rees and Sir Griffith Evans was practically lost to the cause by their ceasing to be Members of this Council. The question was, however, kept alive by periodical interpellations, eliciting more or less satisfactory answers, till my Hon'ble friend Sir Harnam Singh, who is interested in it for more reasons than one, threw the weight of his influence and talent into the scale. Of Local Governments, too, who were moved by or on behalf of the Native Christians within their respective jurisdictions, the Government of Madras did signal service by submitting definite proposals, supported by a wealth of

[22ND MARCH, 1901.] [Rai Bahadur P. Ananda Charlu.]

reasoning and backed up by their then Advocate General, Sir Bhashiem Iyengar, who solved what to a great many appeared to be an insolvable sphynx's riddle, with an ability and thoroughness, which even the hero of Toxar might envy. The consequence was that, although there was a preponderance of *ipse dixit* to the contrary, most of the proposals of Madras, where the hardship was, perhaps, more keenly and more widely felt, became acceptable, as the Report of the Select Committee shows. Three features, incidentally connected with the Bill now before us, must be noticed here as marking a new era in the method of legislation and as amounting to a decided improvement on the previous practice. In the first place, preference has been given to cogency of reasoning over mere preponderance of official *ipse dixit*. In the second place, liberty has been conceded by Your Excellency to the Select Committee to widen the scope of the Bill, which was originally much too narrow to afford adequate relief, by setting aside the red-tape or unbending rules of practice which were believed to block the way. In the third place, the papers printed and placed before the Council have been not only those which embodied the opinions elicited on the Bill *after* its introduction but also those which had *led* to its introduction. I emphasise this last feature and make it a matter for congratulation, as I remember an instance of a recent Bill which was fortunately shelved later, regarding which my request for papers of this description was refused, though in my judgment those papers formed, as it were, the *res gestae* of the whole question, and the Council ought not to be kept in the dark as to them, once the legislation was resolved upon.

"Now I have only to make a few remarks on the proposals in the Select Committee's Report. If, as it shows, the prayer to be relieved from the operation of section 187 of the Indian Succession Act was not granted, there is, strictly speaking, little valid cause to complain. It relates to testamentary succession, as distinguished from section 190, which deals with intestacy. There is, I think, this important distinction between the two cases, that, whereas a will is a ground of title, mere letters of administration have no such force. When it is further remembered that, while there are many cases in which a will is rendered waste-paper by Hindu law, as, for instance, when it deals with partible property, or is made by a widow, daughter, mother, etc., in the Mitakshara provinces, such a document in every case overrides the Succession Law among the Native Christians. The factum of the will is a question of prior importance to its validity. In every case, therefore, a Native Christian, who derives title from a will, will act best to have these questions authoritatively decided by a competent tribunal and be armed with a judgment *in rem* against the whole world. I

[*Rai Bahadur P. Ananda Charlu* ; *Sir Charles Rivaz* ; [22ND MARCH, 1901.]  
*Sir Allan Arthur.*]

may point out that, even among Hindus and Muhammadans, with whom it is but optional to take out probate, except when the Hindu Wills Act applies, it is the invariable practice, as it is an act of manifest wisdom, to prove the will in common or solemn form in order to bar the operation of the Succession Law, which would assuredly apply but for the will. The Native Christians are no worse, and I, for one, would make it obligatory in all cases in which a will is a ground of title, to take out probate for the sake of the testamentary heirs and for the protection of such as deal with them. A contrary policy will lead to disputes, difficulties and disturbances of title when years have rolled by and when the witnesses to the will and to the disposing mind of the testator have ceased to exist. These considerations, which apply to testamentary succession, but which do not to cases of intestacy, in the main support the distinction maintained in the Select Committee's Report, which I accept as conceding all that policy, expediency and the real merits of the question require."

The motion was put and agreed to.

The Hon'ble SIR CHARLES RIVAZ moved that the Bill, as amended, be passed.

The motion was put and agreed to.

#### INDIAN MINES BILL.

The Hon'ble SIR CHARLES RIVAZ moved that the Reports of the Select Committee on the Bill to provide for the Regulation and Inspection of Mines be taken into consideration. He said :—"As my Hon'ble friend Sir Allan Arthur is about to move a small verbal amendment, I propose to defer making any remarks on the Bill until this amendment has been disposed of, and when it comes to my turn to propose the second motion that stands in my name to-day."

The motion was put and agreed to.

The Hon'ble SIR ALLAN ARTHUR moved that in clause 14, sub-clause (2), of the Bill, as finally amended by the Select Committee, between the words "shall each be" and the word "guilty", the words "liable to be found" be inserted. He said :—"This point was raised in Select Committee, and the objection taken to the wording was met by an explanation from the Hon'ble the Legal Member so lucid and so convincing that for the time being I was satisfied. On reconsideration, however, I do not think that the wording as it now stands is really what is intended. It is not the ordinary man's idea of



[22ND MARCH, 1901.] [*Sir Allan Arthur ; Mr. Raleigh ; Sir Charles Rivaz.*]

justice to be considered guilty first, and thereafter to prove that he is innocent. If he does prove his innocence, he should never have been considered guilty. But according to the present wording of the section the owner, agent and manager would at one time be guilty persons, *i.e.*, before they prove their innocence. I think that the wording I suggest is the intention of the legislature rather than the wording as it now stands, and I therefore move the amendment standing in my name."

The Hon'ble MR. RALPH said:—"The words to which the Hon'ble Member has taken objection were borrowed from the English Act. It appears to me that the amendment now proposed makes no difference in the legal effect of the clause, and if the wording appears to the Hon'ble Member more satisfactory, I think I may take the responsibility of saying that the Hon'ble Member in charge of the Bill may safely accept the amendment on behalf of the Government."

The Hon'ble SIR CHARLES RIVAZ said:—"I am quite willing to accept, the amendment."

The motion was put and agreed to.

The Hon'ble SIR CHARLES RIVAZ moved that the Bill, as now amended, be passed. He said:—"Since I introduced this Bill in this Council two years ago it has twice undergone material alteration, first at the hands of the Select Committee which dealt with it last winter, and now again by the present Select Committee which has considered the revised Bill which was published a year ago. On both occasions the important amendments made have been entirely in the direction of meeting the representations and objections made on behalf of the mine-owners; and although I am afraid that even now we have not succeeded in producing a measure which meets with their entire approval, still I think that I may fairly claim that, in the Bill now before the Council, the Government of India have shown all possible consideration to the mining interests compatible with having any legislation at all on the subject. My Hon'ble friend Mr. Ashton does, indeed, in the note which he has appended to the Select Committee's Report, protest against having any legislation at all for the coal-mines of Bengal; but I venture to think that, in view of the past history of the case to which I shall presently allude, he can hardly expect to be taken seriously on this point.

"The criticisms on the revised Bill, which was circulated for opinion a year ago, were mainly directed to two points—first to the alleged unnecessary strin-

gency of the provisions of clauses 9 to 11 of the Bill, which dealt with the question of restricting and regulating the admission and employment of children and women in mines, and secondly to the extensive rule-making power which was reserved to the Executive Government by clause 21. Now, to take this latter point first, I may remind Hon'ble Members that the Government of India, before deciding to undertake legislation connected with the inspection and regulation of mining-operations, referred the whole matter to the consideration of a Committee on which the Bengal Chamber of Commerce and the Indian Mining Association were represented. This Committee, which submitted its report in December, 1895, expressed an opinion, from which only one of its members, who was the representative of the native coal-mine owners, dissented, that a mining law was necessary, and that it should be as short and simple as possible, but should give the Governor General in Council ample powers to make rules and to exempt mines and persons from their procedure when necessary. They embodied their views on the subject in a draft Mines Regulation Bill, which was for the most part of an enabling character and to which were appended full drafts of rules proposed to be made under it. These drafts were circulated for opinion, and the Indian Mining Association, which has now taken up the ground that this wide power of making rules ought to be restricted and that the bulk of the rules ought to be embodied in the Act in accordance with the procedure adopted in the British Coal-mines Act of 1887, at that time fully accepted the principle advocated by the Committee, and again accepted it in giving their opinion on the Bill which I introduced two years ago and which was largely based on the draft Bill prepared by the Committee of 1895. In these circumstances I think we are quite justified in keeping to the original plan of an enabling Bill with extensive rule-making powers. Moreover, for the reasons given in paragraph 3 of the Select Committee's Report, the radical change in form which the Mining Association now asks for would be of very doubtful advantage to the mine-owners, for mining is a comparatively new industry in this country and is still undergoing a process of rapidly changing development. We have not yet got sufficient knowledge and experience of its various conditions and requirements to enable us, even in the case of coal-mines, to frame a set of detailed provisions straight off with any certain assurance of their permanent applicability. If this were attempted and a code of this nature were embodied in the Act, mistakes could not be corrected without recourse to fresh legislation, and the owners and managers of mines might thus be subjected to considerable inconvenience and trouble before this machinery could be employed. On the other hand, if we proceed by rules, we shall be able to move cautiously and deliberately, and to promptly make amendments, modifications or additions as

[22ND MARCH, 1901.]

[*Sir Charles Rivas.*]

the necessity may arise. We have, therefore, decided to keep to the plan of an enabling Act with large rule-making powers, and, this being the case, nothing will be gained by having separate enactments for coal-mines and for metalliferous mines. A very material safeguard against hasty or ill-considered use of the rule-making power thus reserved to the Government has, however, been provided in the Bill now before the Council by the proposal to constitute Mining Boards on which the mine-owners will be represented, and to which all rules which it is proposed to make under section 20 of the Act will be referred for opinion and report before they are published for criticism. It is intended to have one or more such Boards in every province where there are private mines if the owners of such mines express a desire for the constitution of a Board.

"As regards what have been called the labour provisions of the Bill, that is, those which deal with the employment of women and children in mines, and which it is desired in some quarters to omit altogether, the case stands thus: the Bill as introduced two years ago contained a clause which absolutely prohibited the employment below ground in any mine of children under ten years of age, or the admission into any mine of children over four and under ten. In the Bill as revised last year the prohibitory provision in respect of the admission of children into mines was eliminated, but the age below which the employment of children was prohibited was raised from ten to twelve. In the amended Bill now before the Council this one absolute prohibition has, in deference to the representations made on the subject, been struck out of the labour clauses, and the provisions relating to the restriction and regulation of the employment of women and children in mines have been materially simplified. As they now stand, the Government merely reserves to itself the power, first, of making rules to prohibit, restrict or regulate the employment of women and children, either below ground or on particular kinds of labour, where such employment is attended by danger to the life, safety or health of such women or children, and, secondly, of requiring mine owners or agents to maintain registers of women and children employed. But no such rules will be made or extended to any particular groups or classes of mines without previous reference, as I have already stated, to a Mining Board where such a Board has been constituted. The Government has further reserved for its Inspectors a special power to prohibit, on inspecting a mine, the employment of women or children in it, when the Inspector is satisfied that there is urgent and immediate danger to their life or safety. But here again, if the owner, agent or manager of the mine objects to the Chief Inspector's or Inspector's order, his objection will be referred for decision to a Committee on which the owner, agent or manager of the mine concerned will be able to nominate a re-

[*Sir Charles Rivaz ; Mr. Ashton.*] [22ND MARCH, 1901.]

presentative ; and, if the owner, agent or manager is dissatisfied with the Committee's decision, he will have a right of appeal to the Local Government.

" I think I may safely rely on the support of all impartial opinion in claiming that, in this matter of the employment of women and children in mines, we have limited the powers of interference by Government and have safeguarded the interests of mine-owners to the utmost possible extent which is compatible with the due discharge by Government of its responsibility in this respect. The Government indeed could not have consented to restrict its powers of interference to this extent had it not been satisfied that, in the present conditions of mining in this country, and so long as these conditions prevail, the special abuses which have been found to arise in England and other Western countries in connection with the employment underground of women and children, and which have led to restrictions of a very stringent character, are not to be feared. So long as the mines are shallow, so long as the family system of mining prevails, and so long as the mining population is in a position to look after its own interests and refuses to work excessive hours underground or to let the women or children be overworked, the Government is satisfied to interfere as little as possible with the regulation of labour. Still it is impossible to deny that the employment of women and children in mines is in some circumstances liable to be attended by certain risks to which men are not equally exposed, and, this being the case, it is the manifest duty of Government, when legislating on the subject of mines, to take power to protect, when necessary, women and children from incurring such risks.

" The other alterations proposed by the Select Committee are of minor importance and are fully explained in the Committee's Report.

" I trust I have succeeded in showing that the Bill now under consideration, and which I hope will be passed to-day, is a necessary and moderate measure which will in no way affect prejudicially the interests of either the mine-owners or of the labourers employed in their mines."

The Hon'ble MR. ASHTON said :— " My Lord, I have listened with great interest to all that the Hon'ble Member in charge of the Bill has said. I was not on the Committee which sat in 1895, and in the speech which I am about to make I will give the reasons which, I think, induced that Committee and which now induces me to accept the Act, which are reasons not based on the desirability of legislation but on expediency. Nevertheless, I must still ask Your Excellency's leave to speak at some length, first, because I want to use this occasion to give prominence to arguments which I think have influenced the Hon'ble Member

[22ND MARCH, 1901.]

[Mr. Ashton.]

and, secondly, because I wish to strengthen his promises by eliciting from Your Excellency a decisive confirmation. Had the mining industry always to deal with its present Imperial and Local Governments, I should have had nothing to fear from this Bill. But in a very few years it is probable that not a single Member of this present Council will still be a Member. New men with new ideas will then use the powers which we today bring into existence, and will take the place of those who have during the last few months so carefully studied the subject of this debate.

“When this Bill becomes an Act we cannot claim to have made a new law, but we have prepared the ground and roughly drawn the lines upon which others are left to build. Whether therefore the legislation on which we are now engaged will be productive of great harm, will be inoperative or productive of good, will depend on these rules which others are to make; and I would respectfully ask Your Excellency to lay down, in the clear words which Your Excellency knows so well how to command, the lines on which this subsequent legislation should be carried out. With this end in view, I beg leave to endeavour to draw in rough outlines a picture of the coal-industry, which will be the one principally affected by this Act and is the one that I represent.

“I have the honour to represent an Association which comprises Colliery Companies which raise nearly three million tons of coal annually and employ over 40,000 workpeople; and we have every evidence that the rest of the industry is with us in this matter.

“A few months ago the noble Lord, the Secretary of State for India, is reported, in a speech full of sympathy with the peoples of India, to have made the following remark:—

‘No problem was more difficult or gave greater anxiety to persons interested in India than the problem how, for the future, they could provide, for that over-augmented population, conditions that would secure for them a living wage. He saw no hope of attaining that end save by the development of new industries, and, in that connection, he greatly commended the efforts that were being made to spread practical and technical education. He found some comfort in the fact that motive power would in future be electricity. Whereas steam as a motive power tended to aggregate the population, electricity tended to split them up; and, as units could be conveyed to houses, clever Indian craftsmen could possess themselves of a power that might enable them to revive some of the older industries of the country.’

“My Lord, today we have to deal with an actual living industry which is of the greatest importance, *directly* and *indirectly*, to the whole of the population of India, and is therefore of very much greater moment to the welfare of this

country than the visionary industry which the Secretary of State has called up to our imagination with the view to impressing us with the importance of developing industries and providing for our rapidly increasing population. *Directly*, this industry gives profitable and congenial employment to over 74,000 people; *indirectly*, it drives mills, sails steamers, opens up the country by railways, lights your houses, carries your letters. It is the Aladdin's lamp of modern days, and if ever the Secretary of State's vision is realized it will be through this medium. The coal-industry has increased within the last twenty years by leaps and bounds, and the total output in 1900 has risen to over five million tons. It must be remembered that every ton has not only afforded remunerative labour to the working races, but it also provides an indefinite number of people with the means of subsistence during its consumption. Every ton raised and burnt is an addition to the muscles and brain of the community, and yet I see that the consumption of coal in India is now only 22 pounds per head, whereas the consumption in England is 4 tons or 8,960 pounds per head of the population. It is not only in the expansion of industries that it is desirable that the consumption of coal should increase, but it is also of importance to the country that it should come into the daily use of the humblest inhabitant. To quote the words of the Hon'ble Maharaja of Durbhanga :—

'I should regard it as one of the greatest reforms that could be brought about for the benefit of agriculture if we should induce the cultivator to substitute coal and coke for the fuel which he now uses and return the last to the soil.'

"I need not further enlarge on the importance of the industry to the country by giving figures to show how the development of England, the United States and Germany has gone hand in hand with the development of their coal-industry. All I wish to impress upon this Council is that in the Bill before us we are dealing with the very sinews and nerves of a modern nation and of our great Empire, and that any steps taken under the wide rule-making power now to be conferred on Local Governments should not be taken without the gravest consideration, the most careful enquiry and the minutest knowledge. In all Governments the first principle is or should be the good of the people, and in judging of what is for the good of these aboriginal tribes we ought to take into consideration their ideas, habits and local conditions. These elements must be considered in order to get them to think and feel with us and work with us in carrying out our plans. The multitudinous races of India cannot be compelled to work on conditions foreign to their customs. As Burke said a hundred years ago, we must govern them on their own principles and maxims and not upon ours, and should extend our system of opinions to take in theirs and the

[22ND MARCH, 1901.]

[*Mr. Ashton.*]

necessities that arise from both. It is true that the clauses referring to women and children confine Government interference to cases where there is danger to life and health, but these expressions may be unwisely interpreted by future rulers, and it is in order to guard against this that I appeal to Your Excellency to more clearly define their meaning.

"I will now briefly endeavour to describe those interesting people who, under present conditions, command a congenial livelihood in our collieries and at the same time confer such benefits on the State. Several of the Members of Council have themselves seen them at work. They have seen the troops of men, women and children walking down the spacious inclines into colliery workings, where, protected from the inclemency of the weather, they are employed for a few hours on work certainly not more arduous than they pursue in agriculture or more dangerous than they often pursue on Government roads and railways, and coming back to the surface can receive at once the payment for their labour. Let me here quote an extract from a paper on the East Indian Railway mines at Giridih, written by the Director of a Scotch Colliery Company and read before the Institution of Mining Engineers. The paper, I may add, refers to a visit made last year, and is reliable in its details and is written by a man who has no reason, except his sense of justice, for sympathising with us, and the description might just as well apply to many other collieries in Bengal :—

'As a rule, the family, after attending to their own affairs and getting a good square breakfast, go down together not later than 8 A. M. They work till 4 P. M. when they leave their places, come home, wash up, and have the rest of the evening to work on their land in the cooler hours before sunset. They descend by inclines running from the surface to depths of 500 feet, and not by shafts, and prefer this method of coming and going, as it gives them more freedom, although involving a greater amount of bodily exertion. The happy family, consisting of father, mother and say two or three children, hew and carry, or draw, on an average about 2½ tons of coal from the face in eight hours and deliver it into tubs at the pit-bottom or up to a distance of half a mile from the working-face.

'They work in their own time and are paid for what they produce. Strikes or serious disputes very rarely take place between them and their employers. It is more likely that here, as in other parts of India, any disputes that do occur will be between people of different castes or religions. On one occasion there was a general strike or stoppage of work on account of an attempt by the Government to prevent women from working below ground. This was a well-meant but mistaken piece of legislation, based on the Western ideas of some newly-appointed officials fresh from home. The result was that the hewers found, as they were deprived of their wives' assistance in getting the coal

carried from the face to the tubs, that their work was brought to a standstill and no coal could be raised. The mistake was soon seen, and the women were allowed to return and work the coal according to the ordinary Oriental method.'

"I wish that my fellow Members of Council who have visited the mines could have seen the same people in the middle of the hot weather, when the sky is like brass, the ground parched, cracked and dusty, when the comparative cool and the darkness of the workings are a welcome refuge. Not only are the people happy under the present system, but statistics show that they are healthy. The Labour Commission, which was presided over by Mr. Williams, enumerates 47 different castes as working in the mines; but after consulting Mr. Risley's book I do not think that that number, by a long way, represents all the castes employed. The most valued of these workers are the aboriginal Dravidian races, Sonthals and Kols, creatures of the forest and children of nature, whom the mines' managers have to tempt from their forests and fields by the inducements which they offer. If I may be allowed an illustration, I may compare the manager's position to a bee-keeper who provides a hive to attract bees. He makes them comfortable and happy, and in return they leave him a portion of the wealth of their labour. Bees can live, however, in the jungle, and if you interfere with their habits perhaps they will sting you; any way they will leave the hive and live in a hollow tree. And so it is with the jungle races. How easy it is for these people to go away may be judged from the fact that one colliery reports that 75 per cent. of its miners have land under cultivation. Especially are these features noticeable with the Sonthals, whom tradition shows to be a people wisely ruled by their *manjhees* and *paramaniks*, who have preserved themselves, their customs and habits amidst the pressure of conflicting races with wonderful success, who have trekked more than once to avoid what they disliked, and will trek or try to trek again if we force on them conditions which they consider a hardship. It is wrong to say that they are unprotected. They are protected by their own laws and prejudices, sanctioned by the ages, far stronger than any which we can force on them against their will. These aboriginal tribes are the same as they were in the early days of the world; the family, and not the individual, is the unit of society, and their laws and customs are based upon this fact. With your permission I will read an extract from Maine's *Ancient Law*:—

'Archaic law,' he says, 'is full in all its provinces of the clearest indications that society in primitive times was not what it is assumed to be at present—a collection of individuals. In fact, and in the view of the men who composed it, it was an aggregation of families. The contrast may be most forcibly expressed by saying that the unit of ancient society was *the family*—of a modern society *the individual*.'



[22ND MARCH, 1901.]

[Mr. Ashton.]

"So says Sir Henry Maine, and in these ancient Dravidian races we may see these ancient laws at work. It is our duty to respect them, and we can only injure the society which is held together by them if we ruthlessly break them down by the force of our power.

"I have referred to the industry and to the workpeople, and now I wish to say a few words about that skilled body of men, the 'mines managers,' who have built up this great industry. Now that we are about to pave the way for laws which may enable the Inspector to override the mines manager, it is well to remember that the most skilled authorities on this subject in the country are the highly trained gentlemen who are in the employ of the large Colliery Companies. These men recognise that a happy and healthy supply of labour is their most valuable asset. They wish to see the people contented, healthy and strong, and multiplying in numbers. The great enemies that they fight against are sickness and the risk of accident. Nine accidents out of ten arise from carelessness, and if any good is to come out of this Act I think it will be from the special rules which may help the manager to maintain that discipline which is essential to safety. Government must enlist the mines manager on their side. Mr. Ibbetson in his note of 9th October, 1896, has told us that this was his intention, and I know that this is the intention of the present Government. I hope that it will be the effect, and that the authority and prestige of the manager will in no way be lessened by the existence of the Inspector.

"At the present time ill-health has taken one Chief Inspector home, and death has now taken his deputy. Our deep sympathy is with these gentlemen, who have lost health and life in their devotion to duty. To us too the loss is great, for now we must look for a third reformer with ideas hot from the bake-house of English mining schools but difficult for the Indian digestion to assimilate.

"The idea that the interests of managers and workpeople conflict is absolutely erroneous. The dangers of epidemic and the danger of accident are as great to the manager as to the men, and it is a proud boast of the community from which the managers come that should danger arise they never fail to place themselves in the forefront, and the history of the industry is full of instances of their heroism and self-devotion. As there are exceptions to every rule so there may be exceptions to this, and there may be men among them who are not worthy of their position: I hope there are none. But, Sir, as I now appeal to Your Excellency, both on behalf of the industries and of the workers, to sanction the institution of no rules which will allow the Inspector to assume

authority or prestige at the expense of the manager, so I will appeal to all mines managers, particularly of the smaller collieries, in their dealings with the humble human beings who are entrusted to their care and guidance, to remember that, even if higher motives do not move them, their own self-interest demands that they should help, protect and care for the people under them. I trust, my Lord, that no unworthy member of this community will give occasion for Government to say that the mines managers are not worthy of the trust that I now ask Government to place in them, nor will give excuse for the enacting of rules of a nature that may hamper the industry.

"Such is the industry and such are the people with which we have to deal, and I wish now to say a few words with regard to the Bill itself. The representatives of the coal-industry have ceased to oppose legislation, not because they think legislation will do them any good, but because they regard it as an inevitable result of the convention of modern times. There is legislation at home, and so to be in the fashion we must have legislation here. Otherwise I see nothing to warrant this Government moving from the position taken up by Lord Lansdowne's Government which is so admirably defined in their letter of October, 1892. Lord Lansdowne's Government considered that no legislation was called for, and that opinion has been confirmed by every one since who is familiar with the subject. Lord Bacon says:—

'It is good also not to try to experiment in States except necessity be urgent or the utility evident, and well to beware that it be the reformation that draweth on the change and not the desire of change that pretendeth reformation.'

"Your Excellency has warned the Government before utilizing its legislative powers to satisfy itself on two questions:—

'The first is—has the existence of an evil, calling for legislative interference, been established? The second is—is the particular legislation proposed the right remedy?'

"I consider that Government has not proved, in the case of this Bill, that an evil exists or, as Lord Bacon put it, that reformation necessitates the change. Had the Hon'ble Member in charge of the Bill shewn that helpless people are being ill-treated and degraded, forced to work under unhealthy or dangerous conditions, I would have been with the first to have agitated to have them protected even though the strength of the State were impaired, though railways should cease to open up districts now periodically devastated by famine, though our mail-steamers should cease to run and our commerce be entirely disorganized for the want of coal; but, so far from the workers being unhappy, we have abundant evidence that they are happy and contented.

[22ND MARCH, 1901.]

[*Mr. Ashton.*]

"In all industries, but in mining more than any other, there is a Nemesis that acts more promptly than Government can, and punishes more severely carelessness, negligence and, above all things, disregard of the health and comfort of workpeople.

"I do not hesitate to say that I do not believe in legislation of the kind now contemplated for the regulation of industries. It is the fashion after such legislation has been introduced for Inspectors to publish from year to year reports showing how industries have improved under their guidance. To anyone who is behind the scenes such claims are absurd. I have known the coal-industry of India intimately for eleven years, and I have seen immense improvements effected without legislation. Improvements will continue to go on in spite of legislation, for, as Mill has said, people, whether employer or employed, understand their own business and their own interests better and care for them more than the Government does. I have known the cotton-mill industry here and at home intimately for twenty-four years, and have never come across a case where Government Inspectors with statutory powers have done any good to either workpeople or industry, neither can I think of any improvement that has emanated from them, though I have seen countless improvements instituted for the benefit of both workers and industry that have emanated from the industry itself. But in this country there is another great objection to unnecessary legislation, for it is a country of false evidence, of heart-breaking delays, of vast distance and difficult journeying, and the law too often becomes the shield, and sometimes the offensive weapon, of the evil-doer. Without statutory powers a skilled adviser can probably do good because he comes as a friend and not as a detective, and it is right and desirable that Government should place at the disposal of industries the very best technical advice and opportunities to acquire knowledge; but there is a wide difference between this and the authoritative interference now contemplated. As a case in point I would call attention to the inspection of land boilers in England which, contrary to the procedure in this and other countries, is left entirely to private enterprise and is most magnificently conducted, notably by the Manchester Steam Users Association. On the other hand, I would call Your Excellency's attention to the fact that the most terrible accident that has occurred in coal-mines in this country occurred in 1899 in the Government collieries at Khost, where 47 lives were lost. I think it unfortunate that at a time when Government was proposing to control our collieries Government should have delayed the publication of the report of 1899, which contains this evidence of the efficacy of Government methods, till two weeks ago. I had intended to refer in detail to

the Mines Inspector's report which gives particulars of this accident, but a sad and sudden death has overtaken the writer and I feel loathe to criticise his action. I will therefore leave the matter, merely asking Hon'ble Members who read this report also to read my comments on it, made in my capacity of Chairman of the Mining Association when it first appeared, which I have asked the Home Department to forward to Hon'ble Members. My Lord, we are to have legislation, and we accept the inevitable. We think that, as vaccination is better than small-pox, we may escape a greater evil by submitting to a lesser, and accept this Act not with delight but because we think it may protect us against a less desirable one. But, my Lord, in all countries, and most of all in India, laws should be clear, simple and certain, and we would have wished to have had a Coal Mines Act complete in itself and containing all its rules, so that we might know at once what we were to deal with. My Hon'ble friend in charge of this measure has told us that this would not be convenient. It would indeed be inconvenient, because we actually do not yet know what evils we are going to remedy. As a proof that legislation by rules is also not convenient, I read the preface to a laudable effort by the Personal Assistant to the Secretary to the Legislative Department of this Government to reduce to order the chaos that has resulted from the system in the past :—

'This pamphlet contains a list of all General Rules and Orders published under (A) Statutes, (B) General Acts, which the Legislative Department have, from time to time, found it possible to collect.

'It has been brought down to December, 1899.

'It was originally intended to have issued a collection of these Rules and Orders printed in extenso, but, considerable difficulty having been experienced in obtaining copies of the older Government of India and London Gazettes, it has been thought advisable to abandon the idea for the present.

'It is hoped that the lists now published for the first time will, to a certain extent, take the place of the collection above referred to, but it must be distinctly understood that the list is probably neither exhaustive nor free from error, and the undersigned will feel obliged if any omissions or inaccuracies, which may be discovered, are brought to his notice.'

"Sixty-eight years ago, speaking in the House of Commons on the India Bill, Macaulay said :—

'It is time the Magistrate should know what law he is to administer, and that the subject should know under what law he is to live.'

[22ND MARCH, 1901.]

[Mr. Ashton.]

"It was time then; it is sixty-eight years after time now, although Macaulay spent four years of his life on this very Council in trying to remedy the evils that he deplored. I therefore hope that private enterprise will respond to Government's pathetic appeal and enable it to make a list of its general rules and orders free from error, omissions and inaccuracies.

"But, my Lord, over and above this plea of convenience there is this fact. Large collieries must be laid out for many years in accordance with existing law and cannot be altered without expense. It is true that under this Bill precautions have been taken against the caprice of individuals by the establishment of a Standing Board to which rules will be referred, and that these rules must also be published and sent to the Government of India. But this Board is only advisory and contains an overpowering Government majority. There is (A) the Chairman, (B) the Inspector, and (C) another official appointed by Government, with (D) and (E) who are appointed by the mining interest. My Lord, I consider that it should be laid down that this member (C) should be either a non-official or a member of the judicial service. Government, I am glad to say, has promised to proceed cautiously; I hope that only few rules will be necessary, and that these will become law and that finality will then be attained; I go beyond that, and ask Your Excellency's assurance that this will be the case, and that when the rules have been instituted and are working smoothly they will, if the mining-industry so wish, be made part of the law, and that the wide rule-making powers conferred by clause 20 may then be surrendered and the industry allowed to develop in peace till such time as it may be necessary to legislate afresh.

"Finally, my Lord, I come to the machinery with which this Act and its attendant rules are to be worked. On this subject I have been encouraged by His Honour, who so sympathetically conducts the government of this great province. As the Bill has been suggested by similar enactments at home, it is well to compare the machinery which is available here as compared with that at home. If we go home for our precedent for the Bill, we ought to go home also for the precedent for the machinery by which it is worked. But unfortunately we have not, and cannot get, this machinery. The coal-industries of Bengal come under three different administrations. In one of these the executive is centred at Hazaribagh, 70 miles by road from the coal-district; a second at Purulia for a journey to which from the coal-districts it is necessary to travel by three different trains with all the inconveniences of Indian connections; and a third at Burdwan which is comparatively accessible, being only 70 miles on the trunk line from its district. How different is this from the

[*Mr. Ashton ; Rai Sri Ram Bahadur.*] [22ND MARCH, 1901.]

Boards of Honorary Magistrates in England, the means for getting backwards and forwards from the Courts, the ease of collecting witnesses and the facilities that exist at home. I submit that under the antiquated conditions existing in this country the satisfactory working of the proposed new Act cannot be hoped for, however able and willing the Government officers may be; and if Government desired to improve the condition of the people it should have first turned its attention to this want of system which has come down to us from the time when railways would have seemed wild and fantastic visions. The coal-districts of Bengal are commercially an entity, and by their immense importance can well claim a reformation of the executive authority by which they are ruled. I regard this question of administration as of more importance than legislation, and therefore I ask His Honour through Your Lordship to tell this Council what can be done to effect this most desirable reform.

"My Lord, it may be said that, holding the views I do, I should have moved an amendment to the motion before the Council; but I have two cogent reasons for not taking this course. The one is that while I acknowledge the most generous and sympathetic hearing that has been given me in Select Committee and today in this Council, I could not hope an amendment at this stage to be successful without Government's order in its favour. The other is that had my amendment succeeded it would have only resulted in further loss of time; perhaps in arousing feelings which would be regrettable. The Bill had come into being—it was a dangerous creation, and the wiser course seemed to us not to block it, but to endeavour to so direct its force that it could do little harm and some good, and I hope and think that this has been effected.

"I have to thank Your Excellency for giving me the opportunity of placing the views of the coal-mining community before the Select Committee. I have to thank that Committee for their fairness and friendliness and for the frank way in which I have been given access to the opinions of the district officials, all favourable to my arguments; and finally to thank Your Excellency and this Council for the patient hearing that has been given me today. I would conclude by saying that, unnecessary though I consider this legislation to be, and whatever its result, I am sure that nothing but good can come from the efforts which Your Excellency's Government has made and the desire which it has shown to associate the public with it in its deliberations."

The Hon'ble RAI SRI RAM BAHADUR said:—"My Lord, considering the stage to which this Bill has reached, it would, I think, be too late now if I were to say anything as to the desirability of having any legislation at all on this subject. The Hon'ble Mr. Ashton, who from his connection with, and

[22ND MARCH, 1901.] [Rai Sri Ram Bahadur.]

actual knowledge of, the mining industry in this country, is in a position to speak with authority, has already said what could be said on this point.

"India is in sore need of the development of her different natural resources, of which mines form an important factor. Lack of enterprize, want of capital and ignorance of the principle of combining capital with labour, have up to a very recent time been in the way of the people of this country in doing anything in this direction. It is to foreign capital, energy and enterprize that India is indebted to the opening out of this new industry and to the setting in of an example which is now being followed by her own sons. This industry has opened new fields for the employment of thousands and thousands of the labouring classes.

"My Lord, the mining industry in this country is only of a few years' growth, it is still in its infancy, and therefore requires the fostering care of the Government. Such being the case, the question arises whether the time has come for having a legislative enactment to regulate the working and management of mines. Conceding the point that a strong case for legislation has been made out, the next question arises as to the form which such legislation should take; in other words, whether it is desirable to combine in one legislative enactment provisions of law which would be applicable to metalliferous mines, coal-mines as well as to stone-quarries. It has been said in many quarters that the attempt to bring the whole of the mining and metalliferous industries on an equal footing and to be regulated by one Act is not a happy one. This objection acquires some additional force from the fact that in England there are two different Parliamentary Statutes laying down the law for different classes of mines, *vis.*, the Metalliferous Mines Regulation Act of 1872 (35 & 36 Vict., c. 77), and the Coal Mines Regulation Act, 1887 (50 & 51 Vict., c. 58).

"But as the subject of legislation to regulate mines in this country has been engaging the public attention for some time and the Bill has been under consideration for years, it has passed through two Select Committees and the public have had ample opportunity to weigh its different provisions, the raising of questions like the above cannot serve any useful purpose now.

"I beg now to say a few words on the Bill as settled by the Select Committee. It is satisfactory to notice that the provision containing an absolute prohibition of the employment of children has been omitted and that relating to the employment of women has been so recast as to remove its objectionable features.

[*Rai Sri Ram Bahadur.*] [22ND MARCH, 1901.]

"Clause 9 (1) of the Bill gives power to Local Governments to constitute Mining Boards for the province or for any part of the province or for any group or class of mines in the province. The powers of these Mining Boards are given in clause 11 of the Bill. The Governor General in Council or the Local Government is authorized, under clause 20 (1) (b), to make rules for the appointment of chairmen and members of Mining Boards. It is submitted that in nominating members of the Mining Boards and in framing rules for their appointment, Government will be pleased to take proper care to have the native mine-owners duly represented.

"Another provision of the Bill which will affect the mining concerns in this country, specially those owned by the Indians, is the power given to Government to make rules prescribing the qualifications of managers and of all persons acting under them, and regulating the manner of ascertaining, by examination or otherwise, the qualifications of those managers and their subordinates. It is hoped, my Lord, that for some time to come no hard-and-fast rules in this respect would be framed, but they would be as lenient as circumstances would allow. Any stringent rules will hit hard the native coal-mining industry, which is yet in the process of growth.

"There are many petty mining concerns, owned individually by the Indians, which are worked with small capitals and which have to maintain a keen competition with mines owned by Europeans and worked with large capitals, according to the joint stock system. Unless mining schools be established in the country, it will not be easy to get persons duly qualified to act as managers. The small Native concerns cannot afford to employ duly qualified European managers. It appears that though very few among the managers employed in the collieries owned and worked by the Indians have had the advantages of a good literary or technical education, yet they can do their work properly, by the practical knowledge and experience they have acquired in the course of their service in mining industries. Circumstances, such as those mentioned above, will, I hope, be duly considered by the Government in framing rules regarding the qualifications and examinations of managers and of other persons working under them.

"The last point on which I wish to say a few words is clause 29 of the Bill. Instead of making the Bill, which is going to become law, applicable to the whole of British India, the more preferable course would, in my humble opinion, have been to make it, in the first instance, applicable to those provinces or parts of provinces only where necessity for such a legislation has been shown to exist.



[22ND MARCH, 1901.] [*Rai Sri Ram Bahadur ; Mr. Smeaton.*]

But the Government has considered it proper to extend the scope of the Bill to the whole of British India and to reserve to itself the power to exempt from its operation, by notification in the official Gazette, any local area, or any mine or group or class of mines, or any class of persons. So far as the North-Western Provinces and Oudh are concerned, no necessity exists for application of the provisions contained in this Bill. When first asked to express its opinion on the subject, the North-Western Provinces and Oudh Government, in its Chief Secretary's letter No. 1346-1—438B., dated the 19th May, 1897, addressed to the Secretary to Government of India, Department of Revenue and Agriculture, said that 'the draft Act and the rules forwarded contemplate a condition of things which does not exist in these Provinces.' The said letter did also express approval of the suggestion that 'the District-officer should have power to exempt from the operation of the Act *kankar* pits and other wholly open workings, the latter class including diggings for lime and earth and stone-quarries, &c. In its two subsequent letters on the same subject, dated the 4th August, 1899, and 10th August, 1900, respectively, it made a reference to its first letter. In the last letter that Government said expressly that 'the Lieutenant-Governor has no objection to any of the provisions of the Bill, which hardly concerns these Provinces.' of The references given above show that it is wholly undesirable to extend any the provisions of this Bill to the working of *kankar* pits or other wholly open workings and to the stone-quarries as they are worked at present. I therefore beg to submit that on the passing of this Bill into law early steps may be taken to issue the requisite notification under clause 29 exempting the North-Western Provinces and Oudh wholly from the operation of the new legislation, or, if that step be considered inadvisable, to exempt the working of the *kankar* pits and other wholly open workings from its operation."

The Hon'ble MR. SMEATON said :—" I am one of those who enjoyed the somewhat doubtful pleasure but considerable profit from an inspection of several coal-mines in the Bengal District by the favour of the Hon'ble Mr. Ashton. The inspection was attended with considerable tribulation, but one was able to see a great deal of the internal working of the mines and of the labour-force employed. I am able to endorse fully the remarks made by the Hon'ble Mr. Ashton as regards the happiness and health—the greater happiness and greater health indeed compared with those employed on the surface of the land—of those labourers who are employed underground, and of the sensitiveness of the family system to any interference ; but I confess I am altogether unable to agree with him in thinking that there is no necessity for legislation. I think that any open-minded reader of the papers which have been laid before Members of Council must, even on their evidence alone, have concluded that there is ample

ground for intervention; in fact, that it was the bounden duty of Government to legislate. I remember very well that during our inspection the Hon'ble Member himself pointed out to me on the spot two very cogent reasons indeed why protective legislation was required. He showed me two defects in the machinery at the mouth of two mines, and he indicated to me certain troubles in the subterraneous working of another mine which even then, as I told him, seemed to me to clearly justify Government in taking power by law to guard against danger. In the criticisms which he has made on the Bill as it stands, my Hon'ble friend, or the Association which he represents, appears to me to be still lingering on the provisions of the first two Bills which have been superseded and so radically altered by the Bill now before the Council. Subject to certain modifications in detail, the principles of the first two Bills were identical. Children were absolutely forbidden either to be employed in, or to be admitted to, mines; women partially so. The Inspectors had large powers granted them under these two Bills to interfere in regard to the labour-force generally, in regard to the employment of women, children, and men, and in respect of any work or practice in mines or about mines or above mines which the Inspector might consider to be objectionable. The Local Government under these two Bills possessed the sole power of making rules upon every conceivable subject connected with mines, including wages, hours of labour and measurements of task. Now all that is changed; and I hardly think that the Hon'ble Member has given sufficient consideration to the changes that have been made. The Bill now before the Council is in fact a totally new one. It is in effect a reversal of the old Bills in principle and in many of their substantive provisions. The prohibition of employment or admission of children and women has been swept away altogether. The age limit has been reduced from fourteen to twelve years. The power to interfere in wages, hours of labour, and measurements of task have been brushed aside altogether. The Inspector, upon whose powers to interfere the Hon'ble Member lays such stress, had under these two Bills certainly large powers—and no doubt objectionable powers—to interfere; but now under the new Bill he is relegated to what he really ought to be—a ministerial officer—and his acts are absolutely subject to the control of the Committees, who in every case of dispute that can arise between an Inspector and mine-owner has power to decide the case. So I cannot myself see where these arbitrary powers of the Inspector now come in. Then again the power to make rules which was more or less absolute in the hands of the Local Government—and, of course, also in the Government of India—under the old Bills—that power has practically been transferred to the Mining Board. How? because the Government cannot even publish the rules

[22ND MARCH, 1901.]

[*Mr. Smeaton.*]

till their purport has been approved by the Mining Board, and till their provisions have also been agreed to by the Mining Board. This, as I understand it, is the intention of the Bill; and not, as the Hon'ble Sir Charles Rivaz appear to interpret it—that the Mining Board has to report its rules for sanction of Government. It is the Mining Board who in reality sanction the rules—not the Local Government. Thus, it seems to me, the great object that the Mining Association and mine-owners have been aiming at has been attained by a full, free and independent discussion of the rules which may be passed; thereby safeguarding them against arbitrary decisions or regulations. All powers now reside practically in two representative bodies, namely, the Committee and the Mining Board, and on these there are representatives of the State, of the public and of the mining interest themselves. The proposal of the Hon'ble Member to incorporate the rules in the Act and then to revoke the power to make rules appears to be injurious to the interests of the mine-owners themselves and to be a blow at the very principle for which they have been contending; and it would be a pity, I think, thus to impair the principle of the Bill and alter its liberal progressive character. It is in marked contrast to its predecessors, which, if I may so describe them, were bureaucratic, excessively restrictive, and distinctly in advance of the existing needs of the industry. The scheme of the measure as it is now put before the Council by the Hon'ble Sir Charles Rivaz—and our thanks are due to Your Excellency for reinforcing the Select Committee by the appointment of our colleague Mr. Ashton, and thus letting in the light of public opinion on its discussion—has been shifted from its bureaucratic basis to what I may call a democratic basis; and this marks a very important and very hopeful departure in legislation upon industrial subjects—a reform for which all who are interested in the industrial development of India will be grateful to Your Excellency. I can only wish that the Bill with which I was connected two years ago had also had the same favourable treatment dealt out to it—I mean the Petroleum Bill. If the Select Committee on that Bill had had an expert independent member like our colleague Mr. Ashton, we should have turned out an intelligible measure with a convenient code of rules for all India, instead of, as now, a complicated and out-of-date Act and a tangle of rules which require an intellect above mine to understand. That Bill with appended rules was really, if I may so call it, an attempt at consolidation without solidity. If I am not out of order, may I suggest that the rules for mining and mineral concessions—rules, I may say from experience, which even in their improved form are not quite faultless—might be revised in the same way by a Board similar to that which is constituted under the Bill.

"I only want to draw attention, my Lord, to one point in the Bill which perhaps I should have noticed in Select Committee and for which I must apologise. It may have been an inadvertence. Section 30 runs as follows:—

'The Governor General in Council or any Local Government shall have authority to reverse or modify any order passed under this Act by any authority subject to his or its control.'

"But if we refer back to clause 10, sub-clause (5) (keeping in mind section 30), a question may arise which should be referred to the Committee. Clause 10, sub-clause (5), runs as follows:—

'The Committee shall hear and record such information as the Chief Inspector or the Inspector of Mines or the owner, agent or manager of the mine concerned may place before them, and shall intimate their decision to the Chief Inspector or the Inspector of Mines and to the owner, agent or manager of the mine concerned, and shall report their decision to the Local Government, or, where a Mining Board has been constituted, to the Local Government through the Mining Board.'

"And then sub-clause (6) provides that—

'On receiving such report the Local Government may, if the Inspector of Mines, or the owner, agent or manager, has lodged an objection to the decision of the Committee, proceed to review such decision and to pass such orders in the matter as it may think fit.'

"It appears to me that the restriction in section 10, sub-clause (6), is somewhat at variance with the large powers given by section 30. It seems to me to allow the Local Government to reverse, without any objection being put forward by either party, any order passed under the Act by any authority, in which I suppose the Committee is included, subject to its control. I mention this simply because it struck me that it might have been an oversight and possibly it might be worthy of rectification.

"Another matter I should like to mention which is rather important, and that is in section 21. I see there that the special rules which are made by the mine-owner or manager are not to be approved by the Mining Board, but they are to be approved by the Local Government on the Inspector's report. Possibly, however, this is unobjectionable.

"One other point to which I would draw attention is this: in sub-clause (4) of section 21 I notice that these rules are to be published in the vernacular of the district in which the mine is situate; but then there are, as my inspections showed, engaged in those mines in the Burdwan District people who do not speak Bengali, although Bengali is the language of the district. It seems to me that

[22ND MARCH, 1901.] [*Mr. Smeaton; Sir Allan Arthur.*]

it would be wise to provide that these rules should be published not only in the language of the district but also in the language of the principal labouring classes, such as Sonthalis, and North-West men who are engaged in the mines, but whose language is not Bengali; otherwise it is hard to see how penalties for infringement can justly be inflicted."

The Hon'ble SIR ALLAN ARTHUR said:—"My Lord, the Hon'ble Mr. Ashton has dealt so fully with the Mines Bill from the point of view of the mine-owner that there is little left for me to say. With the elimination of sections 9 and 12, which dealt with the employment of women and children, the sting has been taken out of the original Bill, and I think the Bill as it is now amended may be accepted by mine-owners, provided that Government proceed cautiously with the framing of the rules, which, as has been pointed out, are more important than the Bill itself. There is in India a very natural objection to legislation by notification, because of the uncertainty of what may happen, and for that reason many people interested in mining would prefer to see all rules incorporated in the Bill. The Hon'ble Sir Charles Rivaz has given some sound reasons why this course should not be adopted at the present time, and the point has been waived for the time in the full assurance that Government has no intention of taking advantage of the powers given them to formulate rules which may press hardly on anyone of the many kinds of mines scattered over India. Of one thing I am sure, and that is that, if the rules are considered and framed in the same conciliatory spirit and with the same regard to the interests of mine-owners as have characterized the Hon'ble Sir Charles Rivaz's treatment of the objections raised and the suggestions made by the Hon'ble Mr. Ashton and others in Select Committee, the mining industries have little to fear from the passing of this Act. At the same time I would say that if at any time advantage is taken by Local Governments to frame any rule which will press hardly on any of the mining industries of the country, the opposition to legislation by notification will be greater than it has ever been before.

"It is a little unfortunate that more time between the issue of the Select Committee's report and the passing of the Bill could not be given, particularly as regards mine-owners situated far away from Calcutta, who have had no opportunity of making their views known. In their interests I think the formation of Advisory Boards should be compulsory in every district in which the Act is to come into force, and the pledge, which the Hon'ble Member in charge of the Bill has just given, *vis.*, that it is intended to appoint Mining Boards in all districts where mine-owners desire it, will be received with satisfaction.

[*Sir Allan Arthur ; Mr. Evans ; Mr. Raleigh.*] [22ND MARCH, 1901.]

"The Bill is of the Government of India's creation, and it seems to me that it is incumbent on them to provide the necessary machinery for carrying out the provisions of the Act with the least possible friction and in such a manner that the progress of mining should not be checked in any single district of this great country."

The Hon'ble MR. EVANS said :—"There is only one point to which I ask permission to call the attention of Council. It has been frequently suggested that the form which mining legislation in England has taken affords evidence that it would have been both possible and desirable to embody general rules in the Bill. It has been stated, and correctly stated, that such rules were incorporated not only in the Statute of 1887, but also in that of 1872. As a matter of fact, we might go further back in the history of that legislation with the same result, for general rules were to be found in the still earlier Act of 1855. But that is not going far enough. It was thirteen years earlier, in 1842, that legislation first took place in regard to mines. The Act of 1842 applied to all classes of mines, but it was limited to restrictions in the employment of women and children and provisions for the appointment of Inspectors of mines. Eight years later, in 1850, an Act was passed to make further and more definite measures for the inspection of coal-mines and to provide for the appointment of Inspectors of such mines, and prescribing their powers and duties. Even then no attempt was made to frame and embody in the Act any general rules. It was not till thirteen years after the first step in legislation was taken in 1842 that sufficient experience in the working of collieries had been gained to justify the framing of general rules and their incorporation in the Statute Law of the country. It seems then that in refraining from any attempt at present to make general rules to form part of the Bill we are but following the example set by the legislature in England and for the same reasons that justified that course. At any rate, it is, I think, clear that any argument based on the course of mining legislation in England justifies rather than condemns the exclusion from the Bill of any general rules."

The Hon'ble Mr. RALEIGH said :—"My Lord, in moving that the Bill be passed, the Hon'ble Sir Charles Rivaz referred briefly to the history of this measure. I propose to travel once more, but very rapidly, over the same ground, and to take up the objections which have been raised in the course of the debate.

"It is quite true, as Mr. Ashton has reminded us, that Lord Lansdowne's Government deprecated legislation in this matter. They pointed out that the indus-

[22ND MARCH, 1901.]

[*Mr. Raleigh.*]

try was only in its infancy; they wished to make sure of their facts before attempting to legislate, and they asked Her Majesty's Government to send them an Inspector. That request was complied with, and the Inspector's reports are the foundation of our case. We may readily concede to Mr. Ashton that official reports are not infallible. It is easy to understand that an expert, trained in England, coming to this country for the first time, may overlook some of the difficulties with which managers of mines are contending. But our Inspectors have been men of high character, whose evidence on points of fact cannot be doubted, and their reports were such that Government felt it necessary to take action. A Mining Committee was appointed to advise as to the form which legislation should take, a Committee constituted in a manner which must command Mr. Ashton's approval; for while the Chamber of Commerce had one representative, the Mining Association one, and the native mine-owners one, Government was represented only by the Chairman and the Inspector. I ought to say that the representative of the native mine-owners, Mr. Dakshineswar Malia, was opposed to legislation; but his European colleagues did not agree with him. They embodied in their report the draft of a Bill, and they stated that in their opinion a mining law should be 'as short and simple as possible, but giving the Governor General in Council ample powers to make rules and to exempt mines and persons from their procedure when made.' These words may be described as the instructions on which this Bill was drawn. We adhered to the plan of framing a general Act, under which mines of all classes might be dealt with, and we proposed to leave the details to rules.

"In one point the Bill went beyond the recommendations of the Committee; it made some tentative provision for regulating the labour of women and children, and for other matters relating to persons who work in mines. It may be admitted that these provisions were in part unsuited to the circumstances of Indian mines; they were received by the mining interest in Bengal with resentment and alarm. In the heat of controversy, the owners of mines abandoned the position taken up by their representatives in the Committee; they took up the position which has been ably defended by Mr. Ashton today.

"In the first place my Hon'ble friend tells us that no case has been made out for legislation, and in support of this contention he gives us a description of the mines with which he is best acquainted—mines where access is easy, work light, ventilation good, accidents few; where the manager cares for his work-people and the labourer is fairly contented.

Mr. Smeaton confirms the accuracy of this description, and I am not in any way concerned to dispute it. If Mr. Ashton tells me that the majority of mines are such as he describes, so much the better. But he will hardly tell us that all mines are equally fortunate and equally well managed. What I do not quite understand, after listening to his speech, is what Mr. Ashton would propose in regard to the unsatisfactory cases. I will take only one of them. Here is a report which tells us that in a certain mine ventilation is defective, or rather non-existent, and that a large number of men, women and children are living and working underground in most unwholesome conditions. Mr. Ashton does not object to our inspecting that mine; he is in favour of employing a highly qualified person to go round at the expense of Government and give advice to managers of mines. But what is the use of an academic Inspector in the case I mention? The owner of that mine does not ventilate it, because ventilation costs money. What he wants, to make him do right, is not good advice, but a mild touch of coercion.

"We cannot, of course, select the unsatisfactory mines, and deal only with them. No Government could attempt to discriminate in this way between competitors in business. Our choice lies between two courses; we may take power to regulate all mines, or we may leave all mines free and all abuses uncorrected.

"It has been freely suggested that this Bill was not originated in India, and Mr. Ashton has spoken of following what he calls the English fashion. We may admit that the existence of stringent legislation in England is a fact which has some bearing on this controversy. But there is no ground at all for saying that the hand of the Government of India has been forced. Every line of this Bill represents our independent judgment on the facts before us; every one of its provisions has been modified and safeguarded with reference to the special conditions of Indian mining. But, as Mr. Ashton suggests the comparison, I will ask him whether the history of English legislation does not show that the apprehensions he now expresses are somewhat exaggerated. The progress of the coal-industry in England in the last fifty years has been amazing. During all that time, every session of Parliament has witnessed mining legislation, or keen controversy on some question relating to mines. Make out a list of the dozens of Acts and scores of judicial decisions in which the English law is contained; then look at the bulk of this tentative and carefully guarded Bill, and tell me whether it is going to crush the coal-industry of Bengal.



[22ND MARCH, 1901.]

[*Mr. Raleigh.*]

"I do not at all object to the critical attitude taken up by business men when Government proposes to add to the extent of its own powers and the number of its officers. I share to some extent Mr. Ashton's distrust of regulating Acts; we know that such Acts have often caused disturbance and friction out of all proportion to the benefit secured. But we cannot do without them: and I may point out that Government needs an inspecting and regulating authority for its own mines as well as for those of private owners. Mr. Ashton has spoken of the lamentable accident in the Khost mine, and has expressed regret that the report which deals with the accident has been delayed. The delay, I can assure my Hon'ble friend, was not intentional, and indeed we had no reason to keep back the report. Our position, as owners of mines, is that of private owners. Our managers are men of the same class as your managers; they deserve the same recognition; they need the same kind of advice and control.

"But, says Mr. Ashton, if you must legislate, show us in detail what your rules are to be, and embody them in the Act: give us a Mining Code, such as is contained in the English Act of 1887. This demand has been sufficiently dealt with in the course of the debate. We are almost all agreed that we are not yet at the codifying stage. Certainly we will give you, as far as our efforts can secure it: we shall endeavour to see that our rules are not too numerous, that they are not too frequently altered, and that they are brought to the knowledge of those who are to obey them. Finality we cannot promise; neither mine-owners nor Governments can answer for their successors. If our successors think this is not a satisfactory Act, let them make their own proposal and fight their own battle. And, if Mr. Ashton's constituents change their minds, they may change their policy also. For my own part I quite expect that the mine-owners will before long revert to the position of 1895, and will acquiesce in rules which are more easily adapted and altered than the provisions of an Act.

"In what Mr. Ashton says of the difficulties caused by want of care in making, collecting and digesting our statutory rules, I may express my hearty concurrence. This is just the doctrine which my department is always preaching to an inattentive world; and indeed when Mr. Ashton was in search of an illustration he found it in one of our official publications.

"The Hon'ble Sri Ram Bahadur has used an argument which seems to me incidentally to show how difficult it would be at this stage of our experience to frame a Mining Code. The Hon'ble Member spoke of the qualifications of managers. It would be difficult, inexpedient and pos-

sibly unjust to make a strict rule on that subject at this time." Many of our managers in India have learned their business by practising it. If the standard of professional qualification is to be raised, it must be raised gradually, and with due regard to circumstances.

"One point in Mr. Ashton's speech remains to be noticed. He objects to the constitution of our proposed Mining Board, because Government has taken care to secure a majority. The reason for this is very simple. The Board is not an executive authority; it is merely advisory, and we wish to take its advice with a view to action. If we gave the mine-owners a majority, they would have the power to stop any action to which they might object by refusing or delaying to advise. It is not, I think, necessary to limit the freedom of Government in choosing its own members further than it is limited in the Bill. Our members would naturally be Commissioners and District-officers. Hon'ble Members who have read the papers annexed to the Bill can judge whether Commissioners and District-officers are animated by an oppressive temper, where the mining industry is concerned.

"My Hon'ble friend Mr. Smeaton calls my attention to an inconsistency, which he detects, between the general rule laid down in clause 30 of the Bill and the provisions of clause 10, sub-clauses (5) and (6). The procedure prescribed by clause 10 is very carefully framed, and, if the rules are followed, I cannot see that the Local Government or the Governor General in Council has any motive for resorting to clause 30 at all. Mr. Smeaton has also suggested that we should strengthen the provisions which require publication of rules in the vernacular. I am not quite certain myself that the vernacular translations of our Acts and rules convey much information to the persons for whom they are intended; and the publication of the rules is an imperfect safeguard, considering how few of the labourers can read. We may, I think, trust the Local Governments to do what is found to be really needed in this matter.

"My Lord, we have not attempted to hurry Council to a decision on this measure. We have not endeavoured to excite agitation by dwelling upon gross abuses to be corrected, or grave dangers against which the labourers are to be protected. We have given every opportunity for criticism, and, now that we have attained to a gratifying measure of agreement with those who represent the mining interest, we think the time has come to pass the Bill, and to address ourselves hopefully to the work of applying it."

[22ND MARCH, 1901.] [*The Lieutenant-Governor.*]

HIS Honour THE LIEUTENANT-GOVERNOR said :—"My Lord, I had intended to say a few words in support of the Bill. Had I not had that intention, the direct reference which my Hon'ble friend Mr. Ashton has made to me would have left me no option. I should like to congratulate Your Excellency's Government on the adjustment that has been come to. I think it is an excellent one and promises to work well in all interests. I do not profess to be an authority on mines; indeed, I frankly admit that until I came to Bengal I was practically without personal knowledge of the conditions of mining in India. My knowledge of mining questions is indeed even now confined to the collieries of these provinces. But of these I have seen a good deal, and I am satisfied, as the Government of India is, that the conditions which meanwhile obtain here do not require the exclusion of women and children, either in the interests of morality or of health. A large proportion of the mines are shallow, reached by inclined planes from the surface. The workings are easily reached, and the air is sweet and cool. The family system, under which the wife accompanies her husband to the workings, is certainly believed among the workmen themselves to be the best protection of the women's morals. The children contribute to the family earnings. I have seen large numbers of them, and they certainly show no signs of an unhealthy life.

"Nevertheless, the collieries are being rapidly pushed into seams at greater depth, and present conditions will materially change. How far the family system will then slowly change I cannot tell. But I think the Bill provides an eminently workmanly and sensible method of meeting such changes as time will bring. In the Advisory Board the mine-owners have the assurance of the most careful consideration of their views on every question which may become a matter of regulation. They will have two representatives on the Board of five. Any rule the Board proposes must meet the approval of the Local Government and then of the Government of India. That approval cannot be given unless the draft rule has been published for three months and the criticisms of the public received and considered. I think there could be no completer guarantee that no rule shall be passed hurriedly or without the fullest consideration of all the interests the rule may affect.

"In connection with the Bill the Mining Association addressed me last month on a matter of jurisdiction. They represented that the coal-field of Jherria, the most important of the coal-fields of this province, was spread over portions of three districts and indeed of three Commissionerships. They asked that the district-boundaries should be re-arranged, so as to bring the Jherria field into a single jurisdiction. The request was reasonable. It is obviously

[*The Lieutenant-Governor; Mr. Ashton.*] [22ND MARCH, 1901.]

confusing to have uncertainty as to the authority for the decision of a reference. The district-boundaries were fixed long before the existence of a coal-field was known. A new and important industry has now sprung up with a large population bound together by common interests, and it will be to the advantage of all to have a single Government. Fortunately the area is not large, as Indian areas go, and I have taken steps to have the whole brought under the single jurisdiction of the Magistrate of Burdwan and of the Commissioner of that division."

The Hon'ble MR. ASHTON said :—"My Lord, the Hon'ble Mr. Smeaton and I visited several of the worst collieries that I could find, and I did not hesitate to point out to him the defects that I saw. I am not afraid to own that they were defects, and defects that should be remedied. But this does not affect my main argument, which is that improvements in such matters can be better effected by the spread of knowledge than by the interference of Government. As a matter of fact, a Government Inspector would not see those little things which I saw. His coming would be signalled and he would not be able even with statutory powers to obtain that knowledge of what is going on which can be obtained by an Inspector who comes as a friend and not as a policeman.

"The Hon'ble Mr. Raleigh has told us that no home influence has been brought to bear on the Government of India in the framing of this measure, and I fully accept this statement; but the fact remains that in the Hon'ble Sir Charles Rivaz's Statement of Objects and Reasons reference was made to the fact that legislation existed at home as an argument in favour of it being instituted in India. I did not intend to imply, neither did I say, more than was stated by Sir Charles Rivaz. The Hon'ble Mr. Raleigh has again asked me to say how I would deal with the man whose workings required ventilation but who refused to ventilate them. My Lord, I should try to show him that ventilation was necessary in his own interests, and I think that I should be able to bring him over to my way of thinking. If however, he was so stupid as not to see that ventilation was in his own interests, I do not consider that even this power of Government would be able to put sense into his mind, and I should have at once recourse to section 144 of the Penal Code, which fully provides for such a case. We have only to come out of our doors to see how little use the Government Inspectors with statutory authority are. Look at the horrible nuisances that exist in Calcutta under our noses in spite of the powers vested in Nuisance Inspectors. The only hope which there is of improving matters is in educating and improving the knowledge of the people. I have already endeavoured to

[22ND MARCH, 1901.] [Mr. Ashton; the President.]

describe to His Honour the Lieutenant-Governor how I should endeavour to improve the conditions of the colliery districts. I would try to open out a centre of education at Asansol by establishing there museums, geologic and mechanical libraries, perhaps even a school for mines to which the mine-managers could resort. I do not claim that the mining industry, as carried on in Bengal, is perfect. I know that it is very imperfect; but this I do say, that the way to improve it will not be found in the institution of an expert policeman—an individual who is doubly dangerous as combining the defects of two professions—but will be found in the spread of knowledge and education."

His Excellency THE PRESIDENT said:—"I think that I may now bring this interesting debate to a conclusion. Few measures that have ever been enacted by the Legislative Council of the Governor General of India have passed through a severer preliminary ordeal than this. It is seven years since the report was presented to us by Mr. Grundy, the first Inspector of Mines in India, which showed that legislation was necessary. Upon his report was convened the Committee of 1895, upon which the mining industry was represented. They provided, as the Hon'ble Mr. Raleigh has pointed out, the material for the first draft Bill and rules that were circulated to Local Governments, as explained in the Government Resolution of October, 1896. When the replies had been received, the draft Bill was revised and sent home to the Secretary of State. All this had taken place before I assumed my present office. The Bill as accepted by the Secretary of State was introduced into Council in the session of 1899. It was then recirculated to Local Governments and other bodies for their opinions and advice. It was dealt with in Select Committee during the session of 1900: and, as re-amended by that body, was again sent out to Local Governments in the summer of last year. Finally, I reconstituted the Select Committee during the present session, and invited the presence upon it of the Hon'ble Mr. Ashton, whose practical knowledge has been of the utmost value to the deliberations both of the Committee and of this Council, and who has delighted us today with a most vigorous speech; and the Bill, as re-amended and substantially modified by it—and how great the modification is has been powerfully pointed out by the Hon'ble Mr. Smeaton—has now at length emerged from its long period of labour, and is about to take its place on the Statute-book. This brief historical retrospect is, I think, sufficient to demonstrate by what slow and cautious steps we attempt to move in these cases, how numerous and unhampered are the opportunities which we provide for outside criticism, and how undeserved are the censures of those who represent the Government of India as consumed by a passion for legislative interference

with matters upon which it is imperfectly informed. If any one still thinks that such a reproach can be brought against the present Administration, I would invite him to compare the form of the Bill as it is now on the table before us with the shape in which it was first sent home to the Secretary of State, and to read the notes not of dissent—for they are appended to a frank acceptance of the Bill—but of what I may call subdued interrogation, by the Hon'ble Sir Allan Arthur and the Hon'ble Mr. Ashton, which appear at the close of the Select Committee's Report. The Hon'ble Mr. Ashton, it is true, questions the desirability of any legislation dealing with the coal-mines of Bengal—a point as to which I shall have a word, or rather several words, to say in a minute—but both he and his Hon'ble colleague confess in their notes that their only objections to the clauses of the Bill are objections which they do not at present foresee—an admission which, emanating as it does from such far-sighted gentlemen, may, I think, justify the remainder of us in concluding that they cannot be very much on the surface. I would further invite attention to their speeches of today. The Hon'ble Mr. Ashton has, indeed, somewhat advanced from the position taken up in his note; for he now describes the Bill as the inevitable result of the convention of modern times; and he compares it with vaccination. Now, I am sure that my Hon'ble colleague was once vaccinated himself, and that, if an epidemic of small-pox were to threaten Calcutta, he would take very good care to be vaccinated again; and therefore I think we may conclude that the convention of modern times is a formula of which he may speak disrespectfully, but to which in practice he would be very scrupulous to conform.

“Accordingly I accept his comparison, and I gladly respond to his challenge to explain to this Council why we have preferred the inoculation prescribed by this Bill to the unimpeded prevalence of the disease which it is intended to check. A Bill for the Regulation and Inspection of Mines is, in my opinion, nowhere more needed than in this country; and an ample vindication of this proposition might, I think, be found in the general as distinct from the peculiar circumstances of the case. The mining industry in India is one that may truly be said to be increasing by leaps and bounds. Twenty years ago it had barely sprung into existence. Now it is a healthy adult. I am one of those who look forward to a promising and remunerative future for this industry, and who would wish to provide every possible opportunity for its expansion. But is it to be conceived that alone in India, of all countries in the world, the Government is to stand aloof and allow mines to be dug, and hundreds of thousands of its subjects to be employed in an occupation, at all times severe, and sometimes perilous, without inter-

[22ND MARCH, 1901.]

[*The President.*]

vening to ensure that reasonable protection shall be afforded to life and limb, and that adequate safeguards shall be instituted for inspection, supervision, and control? It is, I believe, true that India is the only country in the world, where mining exists on anything approaching the same scale, where there is no Mining Law. At present no mine can be visited by a Government Inspector, except by the good will of the owner of the mine. Other forms of industrial labour here have been regulated by Statute, as, for instance, by the Factories Act. Mining could not possibly expect for any length of time to escape from a similar supervision: and great, I think, would have been the responsibility of a Government which shirked a duty that has been assumed by the Government of every civilised nation, and which is imposed upon us equally by our obligations towards the Indian people, and by our respect for the common law of humanity.

"I do not think that many persons, even among the mine-owners themselves, will seriously dispute this proposition. I detect, indeed, a curious analogy between the circumstances of the present Bill and that which we were discussing in this room a fortnight ago, namely, the Assam Labour Bill. The greater part of that measure was designed to improve the conditions under which the coolie is recruited for the tea-gardens in Assam, and is maintained while at work upon them. Those provisions were very generally and thankfully accepted by all parties. Then there was the single clause dealing with an increase of wage, concerning which there was much diversity of opinion, but upon which we ultimately came to a decision that was, I believe, generally acceptable to this Council. Similarly, in the case of this Bill, I venture to think that  $\frac{3}{4}$ ths of its provisions will be recognised as salutary and necessary by all of those here present; while the disputed section, known as the labour clauses, is again a matter upon which we have shown a keen anxiety to meet outside and expert criticism, and not to proceed beyond the necessities of the case. I have indeed as strong a dislike of academic legislation as can possibly be entertained by any mine-owner, who looks upon Governments as sinister bodies animated by an almost fiendish propensity for meddling in other people's business, and in particular for interfering between capital and labour. I am all for developing our nascent Indian industries; and I know that this is not to be done either by cuddling them on the one hand, or by persecution on the other. This is an explanation of the attitude which the Government has adopted with regard to the labour clauses of the present Bill, and indeed towards the Bill in general: and it is one which I at any rate fearlessly submit to the bar of public opinion.

"But now I pass to the justification for a measure of this sort not on *a priori* grounds, but on grounds of local and demonstrated necessity. Some people are in the habit of talking and writing as though mines in India were such simple affairs, so shallow and agreeable, and free from conditions either of discomfort or danger, as to be able to dispense altogether with statutory regulation, equally with labour above-ground and in the fields. The Hon'ble Mr. Ashton has drawn a picture of the poor perspiring labourer who retires to the happy haven of the underground coal-pit as a refuge from the heat of the outer air. I think that this is pushing the case rather too far. It rather reminds me of those persons who defend fox-hunting on the ground that the exercise is so agreeable to the fox. I daresay that in many cases Mr. Ashton's dictum applies. But it is not of universal application. Mines in India are not at all invariably the safe and comfortable resorts which he would have us believe. For years past Mr. Grundy, the Official Inspector of Mines, has called the attention of Government in his annual reports to the defects in their working, and to the dangers to which the operatives were exposed. I have studied these reports, and other Hon'ble Members have probably done the same: and they are far from bearing out the sanguine description to which we have listened. But I have carried my investigations a step further. I resolved to ascertain what was the very latest information as to the alleged conditions of danger attending mining in India, and I accordingly sent and asked Mr. Reader, the Officiating Inspector, for a special report. His reply only reached me a short time since. It was written less than a month ago, just before Mr. Reader sickened of cholera, and died. What he told me was that, in his many inspections, he had repeatedly found an utter disregard for human life, resulting partly from ignorance and partly from carelessness, and that many mines were conducted upon such inhuman lines—these were his own words—that some immediate remedial action ought to be taken. He further supplied me with details about 71 collieries and mines which he had personally inspected at a recent date. In 55 of these he found that precautionary measures were generally taken, and that the health and safety of the work-people were looked after. But in 16 cases—which were principally those of native-owned mines, where he reported a lower standard of experience and care—he declared that there was evidence of an utter disregard to make this elementary provision. In many of the mines the head-gear and winding apparatus were unsafe. Elsewhere there was no attempt at proper ventilation. Frequently the managers were absent, and the work was proceeding under no sort of control. In some cases the proprietors stopped the working of the mines altogether in order to



[22ND MARCH, 1901.]

[The President.]

prevent the Inspector from descending and finding out what was going on. This is the class of manager to whom the Hon'ble Mr. Ashton's earnest appeal of today may profitably be addressed. In one case, in a Bengal coal-mine, Mr. Reader found 250 people (men, women, children and infants) at work, where he reported the ventilation as *nil*, the air as foul in the extreme with smoke and gases, and the conditions as unfit for human existence. In another case he found that three deaths had been caused by a fall of overhanging sandstone, due to incompetent management, and that the lives of 65 other persons were in jeopardy from the same cause. In another case he found the women carrying the coal passing to and fro under a roof of coal that was being taken down and might have fallen in at any moment. In two other gaseous mines, where the managers were absent, and incompetent substitutes had been left in charge, he found huge fires kindled in the working galleries, and naked lights suspended from the roof where the cutting was going on. In a long succession of cases in his report I read the words—'only one entrance; no ventilation; ventilation none.' What the danger of only one entrance is must be obvious to every body. Supposing any accident to happen at the mouth, or the single incline to be blocked, all the persons working underground are imprisoned alive. Again, he says that infants are allowed to be carried and put to sleep in foul places incompatible with health or safety. I might go on multiplying these quotations, which I have given in Mr. Reader's language, not mine. But I think that I have said enough to convince my Hon'ble friend Mr. Ashton that the case for legislation has not only been proved, but proved a dozen times over. If I were to allow such evidence to come before me, and to refrain from acting upon it, when it lay in my power to do so, I should be unfit to be the head of this Administration. At the same time I readily admit that these are the exceptional and not the normal cases—it is with bad exceptions that legislation is as a rule called upon to deal—and that they probably do not occur in the mines with which the Hon'ble Member is himself acquainted. Indeed, Mr. Reader added in his reply to me that the fires, of which I have spoken, were not allowed in any mines under European management, and that, where he had noted grave defects in any such mines, they were in process of being remedied.

"I have now, I think, said enough to show that Government are standing upon very solid ground in taking the powers for official inspection and control that are provided by this Bill; and I will pass to the next remaining subject that demands my attention, namely, the regulation of the labour of women and children. I say frankly in this context that I think that our standard

should be, not a too rigid or pedantic correspondence with the tests or the enactments of European countries, but the security of female and child labour, as affected by the conditions of Oriental labour and life. There is no analogy, or, at any rate, none but the slightest analogy, between the circumstances of English coal-pits, where women and children are not permitted to descend below the surface at all, and the conditions in India, where families all work together, and where such co-operation not merely adds to the earnings of those who are miserably poor, but is a check upon, rather than an incentive to, immoral relations. I do not conceive that a case has been made out for interfering, on abstract grounds, with labour of this sort. I may add that Mr. Reader was of the same opinion, and that, outspoken as he was in his condemnation where condemnation was required, he reported that he had not found women and children doing work in one district which was performed by men in another, or work which was itself of an unsuitable or dangerous character, but that the division of underground labour was fair and well observed. On the other hand, he did report that he had inspected mines where women and children ought not to be employed at all, and that he had found them employed elsewhere under conditions which were equally dangerous to them with the men. This being the case, he held most strongly that legal power ought to be taken to prevent their employment in such places. I do not see how it is possible to differ from this conclusion. Even now woman and child labour is not employed in a number of mines, or is only employed at the surface; and I have seen a letter from a mine-manager in Bengal who has had twenty years of experience in India, and who says that he has never yet employed a woman or child underground, and never will. Though not a word has been said about it in the debate, I think too that Government should not shut its eyes to the fact that in a good many cases the labour of women and children is really engaged not for domestic reasons, but simply for economy's sake; in other words, because it is cheaper than that of men. Labour so employed is peculiarly defenceless, and has only Government to look to for protection. Moreover, Hon'ble Members must recollect that, as time goes on, while no doubt higher standards as regards management will be introduced into Indian mines, so also will there be a tendency on the part of the labour conditions to become more like, and not less like, the European model. Shafts will become deeper, narrower and gaseous seams will be more and more encountered, ventilation will become more necessary, improved facilities for ingress and egress will be required, and the need for closer inspection, and sometimes direct interference, will develop. In these circumstances, it is simply impossible for Government to divest itself

[22ND MARCH, 1901.]

[The President.]

of the full authority to intervene in such cases, or to abrogate its duty, by a rule-making power, to assimilate progressive conditions to a progressive standard of comfort and security.

"Our main object in modifying the labour clauses, as we have done, has been to secure that no such intervention shall take place in a sudden or ignorant or arbitrary manner; but that the fullest opportunity shall be conceded to the mine-owners to be heard in counsel, in exculpation, or in defence. This is the origin of the Advisory Boards and Committees which we have instituted, and which I venture to think will provide a machinery that will ensure to capital an almost unexampled opportunity of making its legitimate influence and authority felt, while not depriving Government of any portion of its right to protect and to safeguard labour. I cannot conceive anything more unfortunate or unwise than that, at this early and transitional stage of the industry in India, definite and rigid rules should be inserted in the Act, authorising or compelling a particular method of interference, and that alone. I would venture to say with some confidence to mine-owners that, were any such course adopted, the only result would be that, before many years had passed, the rules would be found to be so inflexible as to have become either obsolete or inadequate, and that a demand would be made, and very likely strongly reinforced by agitation at home, for a remodelling of the entire Act. It is from every point of view undesirable that we should be perpetually tinkering our former legislation, or passing new legislation, to regulate these questions of labour and capital in India. No enterprise will grow that is always in legislative swaddling-bands. It is much better for all parties that Government should retain the full power to which it is entitled, and which it cannot without discredit shake off or evade; but that it should provide, as we have endeavoured to provide, the amplest guarantees that this authority shall not be used to override expert advice, or to run away in advance of public opinion or of the necessities of the case. The Hon'ble Mr. Ashton has, I understand, invited me, in his speech to-day, to lay down the lines upon which the rules of the future shall be framed, and in particular to define the restrictions that may be applied to women and children. In other words, the Government of India having deliberately refrained from introducing the rules at this stage into the Bill, my Hon'ble friend suggests that I should supply the deficiency by stating them in my speech. 'Will you come into my parlour, said the spider to the fly?' I am afraid that I must assume the position and give the answer of the humbler insect. The fact is, if I may point it out, that the Indian

Mining Association do not quite know their own minds in the matter. As Sir Charles Rivaz has pointed out, there was a time a few years ago when they were all in favour of a rule-making power and against the insertion of rules in the Act. Now they have swung round and are crying out for definite rules. I venture to say that their earlier attitude was, for the reasons that I have named, wiser than the later. Indeed, it would have been absurd to introduce into the Act rules that would have applied to all the metalliferous as well as to the coal mines of India; and no one would have been so competent to point out this absurdity as my Hon'ble friend.

"He has further taken exception to the proposed Mining Boards on the ground that they will contain an overpowering Government majority. Well the Board is only to consist of five persons, and, as two of these are to be mine-owners or representatives, the majority against them, if all the rest vote together, can only be one, which can hardly be described as very overpowering. But who are the three to be? Excluding the Mining Inspector, the two remaining members are to be a public officer nominated by the Local Government, and another independent person similarly appointed. I presume that these persons will commonly be selected from the local officers of the district, to whom I have always understood that the mine-owners gladly appeal in confirmation of the proper conduct of their enterprise, and who have been cited to-day by Mr. Ashton as witnesses favourable to his case; and if my Hon'ble friend now assumes, as he does, that these parties, when they are placed upon a Mining Board, will always be against the mine-owner, I can only say that he displays a most surprising lack of confidence in the equity of the cases that will come before them.

"The fact is that my Hon'ble friend and his associates are very much pleased at the constitution of these boards. It gives them all and more than the protection that they desired. That the coal-mining industry at large cannot be very seriously frightened at what we are about to do, may, I think, be inferred from the market-prices of the Bengal mining shares, which have risen steadily while our measure has been proceeded with, and which stand now at higher figures than they have ever before touched; while, if my Hon'ble friend had been at all genuinely perturbed, I am sure that he would have quoted some more recent authorities upon mining than Lord Bacon and Burke, Lord Macaulay and Sir Henry Maine. In reality I believe that he has been dissembling his emotions of relief this afternoon. They were much more openly confessed by the Hon'ble Sir Allan Arthur, whose candid admissions I greatly admired. For my own part, I do not at all doubt that this Bill, while

[22ND MARCH, 1901.]

[*The President.*]

regularising, will encourage, rather than cripple, the enterprise with which it deals, and which is much more likely to be successful when it is no longer allowed to be lax. It is, therefore, with no small confidence that I submit the motion now before us to the votes of this Council."

The motion was put and agreed to.

The Council adjourned to Wednesday, the 27th March, 1901.

CALCUTTA ; }  
*The 26th March, 1901.*

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*