

*Tuesday,
21st March, 1911*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLIX

April 1910 - March 1911

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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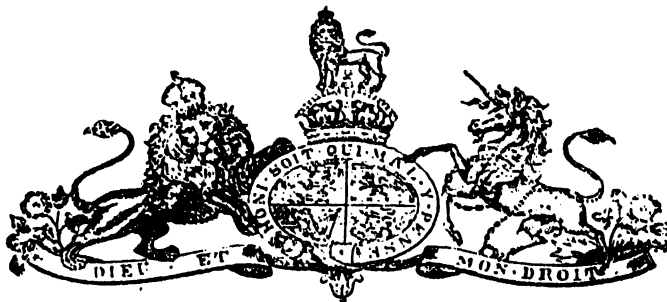
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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO 1909 (24 & 25 VICT., c. 87, 55 & 58 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Tuesday, the 21st March 1911.

PRESENT :

The Hon'ble MR. J. L. JENKINS, C.S.I., Vice-President, *presiding*,

and 58 Members, of whom 53 were Additional Members.

INDIAN UNIVERSITIES (AMENDMENT) BILL.

The Hon'ble MR. BUTLER : "Mr. President, I move that the Bill to amend the Indian Universities Act, 1904, be taken into consideration. This is a small measure which I explained when I introduced it into Council. It was slightly criticised then by the Hon'ble Pandit Madan Mohan Malaviya. His criticism did not extend to the Bill so much as to the fact that the Bill was necessary because the Chancellor of the Allahabad University did not see fit to exercise the full powers given him under the present Act. That, however, is a matter which does not concern this Council, and it is obviously better to have half a loaf than no bread. The Bill has been published and no criticism has been received, and, therefore, I will not detain the Council further in the matter."

The motion was put and agreed to.

The Hon'ble MR. BUTLER moved that the Bill be passed.

The motion was put and agreed to.

INDIAN FACTORIES BILL.

The Hon'ble MR. CLARK : "Sir, I beg to move that the Report of the Select Committee on the Bill to consolidate and amend the law regulating labour in Factories be taken into consideration. I do not propose, Sir, to make

[*Mr. Clark ; Sir Vithaldas D. Thackersey ; the [21st MARCH 1911.] President.*]

any statement now : the Bill, I think, is generally accepted as non-contentious except that part which relates to the restriction of labour in textile factories. On that part of the Bill there are three important sets of amendments put down. These amendments contain alternative proposals to the provisions which the Government have put in the Bill, and we shall have in discussing them to discuss the whole question of restriction of labour in textile factories. I think, therefore, that it will be greatly to the convenience of Council and will avoid going over the ground twice if we proceed at once to consider the amendments. I might also point out that if it is desired, after the amendments, to discuss the principles of the Bill, it can be done at the last stage on the proposal that the Bill be passed into law."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "Mr. President, it will be very difficult to explain the whole position if we first take up the amendments one after another, because, in that case, we shall have to discuss the whole principle on the very first amendment. I think it will be better, and I hope the Hon'ble Mr. Clark will agree with me, to have a general discussion now, and later on to bring forward amendments."

THE PRESIDENT : "It is quite open to Hon'ble Members to make any remarks they wish to make upon this motion."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "Mr. President, my first words on the motion before us are words of congratulation to Government on the Bill as it has been revised by the Select Committee. Sir, the original draft Bill had aroused fears in the minds of factory-owners as to the effects of its operation. The Select and its Sub-Committees, who were at work over three weeks on the Bill, have introduced important amendments with the object of meeting the convenience of the several industries concerned.

"The principal objects of the Bill have been steadily kept in view, and the Bill as revised by the Select Committee carries out the intentions of the Factory Commission in most respects. At the same time, by adopting a liberal attitude in regard to exemptions, by providing assessors to assist in the hearing of appeals from factory-owners, and by making the clauses of the Bill clear and definite, the Select Committee have done their best to satisfy the reasonable objections of factory-owners. I am glad to say that the Bill before us is a very satisfactory measure in all respects except one or two with which I have attempted to deal in my amendments.

"I should not omit to give the credit for this great improvement in the Bill to one to whom it is largely due. I mean my friend the Hon'ble Mr. Robertson. Owing to the unfortunate circumstance that the Hon'ble Member for Commerce and Industry, Mr. Clark, was not able on account of his illness to attend the meetings of the Select Committee, the burden of the whole work of guiding our deliberations fell on the Hon'ble Mr. Robertson. I am sure I am echoing the feelings of all my colleagues when I say that his complete mastery of the subject, his assiduous industry and his constant anxiety to conciliate all interests have won for him our admiration and high regard. Sir, I was a member of the Factory Commission, and I can assure Government that the Bill before us is excellently adapted to prevent all the abuses which the Commission was anxious to put down, provided, of course, that the work of inspection and supervision is carried out on the lines recommended by the Commission.

"After these remarks on the Bill as a whole, I proceed to indicate the points where I differ from the conclusions of the majority of the Select Committee. They are two in number. In the first place, I object, and I have the unanimous support of my non-official colleagues, including those representing the Bengal Chamber of Commerce, the Bombay Chamber of Commerce, the representative of the Jute Mill-owners' Association, and non-official Members representing other industries who were on the Select Committee on this point, to the introduction of the novel principle of direct restriction of the hours of adult male labourers. We are all agreed that no factory labourer should be required to work more than twelve hours a day. There is no difference of

[21st MARCH 1911.] [*Sir Vithaldas D. Thackersey.*]

opinion as to that. The only question is, how is this end of a twelve hours' day to be brought about? The Factory Commission after great deliberation recommended a plan, namely, the creation of a young persons' class with hours limited to twelve. They were of opinion that this would automatically limit the working hours of all labourers to twelve. Government have come to the conclusion that this effect will not be achieved by the plan. But there are other ways by which the same could be done. The Bombay Mill-owners' Association in their recent representation have made one proposal which has also the approval of the Bombay Chamber of Commerce. I suggest another in my amendments, which if accepted by the Council will make it utterly impossible for any mill-hand to work more than twelve hours, without imposing a direct restriction on the hours of adult male labourers. My proposal is to make an hour's interval compulsory after a mill has been working for twelve hours. According to clause 29 no factory can work earlier than 5-30 or later than 7 o'clock. After six hours a compulsory stoppage of half an hour is required by clause 21. A mill which begins at 5-30 will stop for half an hour, between 11-30 and twelve noon. It will work again from twelve to six, and a stoppage of one hour after that would come to 7 o'clock, after which it is prohibited from working under section 29. Thus the object of a twelve hours day will be automatically ensured without legislating on the hours of the adult male labourer. I earnestly hope that Government will, even at this last moment, give a favourable consideration to the amendment. I assure Government that the idea of a direct limitation of men's working hours has caused, and is causing, great alarm among the industrial community. It is felt to endanger the future of Indian factories. We feel that sooner or later this concession which Government propose to make to outside pressure will lead to further demands for greater direct restriction which Government, with all the good will in the world, will be powerless to resist. We may be wrong, but we strongly feel that Government by introducing this novel principle of adult restriction will be throwing away a valuable safeguard to the interests of Indian industries. I have only to refer to the past history of the excise-duty on Indian cotton-factories to show that our fears are not unfounded.

"Then, Sir, I differ from the majority of the Select Committee as to the justice of extending the provisions of the Bill to factories working daylight hours. I may remind the Council that the abuses which the Bill is designed to check arose in mills worked by artificial light, and that it has been admitted that if electric light had not been introduced there would have been no need for present legislation. Why, then, should the provisions of this Bill be extended to factories working by natural light? The chief objection of opponents to the exemption of daylight factories was that the longest working day would be 14 or 14½ hours in the hot weather. But I have provided against it in my amendment, under which the maximum day shall not exceed 12½ hours. While I believe that, ultimately, all mills will find it desirable to adopt a uniform 12 hours day, I think it unjust to impose restrictions where no abuse has occurred. I trust Government will be pleased to consider this suggestion also favourably. I may mention that the Government of Bombay have supported this view. My Lord, there are two other matters to which I wish to take this opportunity of calling the attention of Government though I have not thought it necessary to move any amendments regarding them. The Factory Commission recommended the appointment of a Chief Inspector of Factories, primarily with a view to ensuring uniformity in the administration of factory laws. Government have, however, decided to dispense with this appointment in deference to the views of Local Governments. But, Sir, I earnestly hope that the main object for which the Factory Commission made the recommendation will not be lost sight of. I need not remind the Council that there has been in the past a great deal of difference in the manner in which the Factory Act was administered in the several provinces. In order to avoid such a contingency in the future, the Bombay Mill-owners' Association have suggested that all rules made under the Act should be uniform except so far as local conditions warrant any alteration, and that the Government of India should see that this policy is carried out by Local Governments. Sir,

[*Sir Vithaldas D. Thackersey ; Mr. Dadabhoj.*] [21^T MARCH 1911.]

the best course seems to me to be that the Government of India should draw up a set of model rules for the guidance of Local Governments who will make the necessary changes in them to adapt them to local requirements. I further think that an annual conference of factory inspectors to compare notes will be useful in keeping factory administration on the same level of efficiency in all parts of the country. I should like to have a clear pronouncement from Government on this important point.

"Lastly, Sir, I wish to support the suggestion of the Bombay Mill-owners' Association with reference to the clause relating to ventilation. The subject is a highly technical one; but it is necessary, as has been done recently in England, to have an exhaustive enquiry carried out by experts, and such enquiry was recommended by the Factory Commission also. The rules framed for the due ventilation of factories must be based on the conclusions of such an enquiry.

"In conclusion, I would again congratulate Government and country on the eminently satisfactory manner in which the difficult problems connected with factory administration have been dealt with in the Bill before us."

The Hon'ble MR. DADABHOJ : "Sir, I feel I cannot allow this opportunity, when the Bill relating to the regulation of labour in factories comes before this Council for the last time, to pass without once again entering my emphatic protest against the restriction of adult labour; and I do that, despite what has been said this morning in a daily paper, that we are 'desperate and unprincipled men, and that we are Bill-wreckers.'

"Sir, I have no hesitation in strongly condemning the portion of the Bill providing for a restriction on adult labour. Before I proceed I must join with Sir Vithaldas whole-heartedly in offering congratulations to the Hon'ble Mr. Robertson for the consummate skill and ability with which he has followed this highly technical and important legislation through the Select Committee. I publicly acknowledge our debt of gratitude to him for the facilities and information he very cheerfully gave us during our labours in the Committee. Sir, I do not feel myself justified in taking up the time of this Council at considerable length after the remarks that I made on the restriction of adult labour when the Bill came up before this Council in January. I regret that the Select Committee have not seen their way to delete this provision. Sir, I am afraid this provision will have a serious effect on legislation in this country. I do not wish to repeat the remarks that I made on the subject the other day. I shall content myself with reading one or two passages from an important paper called the *Engineer* published since I made my observations in this Council, and the fear and apprehensions which I then entertained are amply borne out. I pointed out in my speech in January last that this Council was embarking upon a revolutionary and dangerous piece of legislation. I brought to the notice of Hon'ble Members that this experiment had failed in France; it had failed in Switzerland; and it had failed in the United States; it was a practical failure in England; and I am confirmed in my view by the opinion which has been expressed on this matter at home. I shall only read a few passages from the very sober and sensible leading article in this paper, the *Engineer*.

"The first passage reads :

'In the North, however, something more than a mere question of wages is at stake--some cardinal points in the vexed problem of State interference with industry are involved, for the Eight Hours' Act is at the root of the mischief.'

"Again :

'And it is evident that the miners of the North are not going to submit quietly to the inconveniences, losses and hardships inflicted upon them by this new measure. The plain truth is that this Act will not fit the natural economic conditions of the Northumberland coal trade. The idea that peace had been established in the North, when the miners who had been on strike there from January to April last year returned to work, was quite mistaken.'

"Another important passage runs thus :

'Thousands of the miners struck against these new conditions at the beginning. All the time they have been pressing for a remedy; in other words, they desire to go back to the

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conditions which prevailed before the Eight Hours Act was passed. But the owners cannot very well comply with the request and at the same time comply with the law. Nevertheless, the men are about to prosecute their demand still more vigorously. The most unfortunate part of the business is that the miners, misled by socialists, are inviting the coal-owners to remedy their grievances, when, as a matter of fact, they ought to appeal to Parliament for a remedy; for their grievances are the outcome of an Act passed by Parliament, and which Parliament alone has the power to amend. As we have all along suggested, the best way out of the difficulty would be by way of an amending Act permitting 'local option'—that is, giving each district the right, upon a ballot vote, to contract out of the eight hours' law.

"Sir, this will show that the reaction has already set in in England, and I feel quite convinced that before long the English labouring classes will have their voice heard, and that limited hours of labour in special branches of English industries will before long be abandoned in England. When people in England, when people in other civilised countries, are finding out the mistake of past legislation, we practical men here are legislating for a law which has been found from experience to be entirely undesirable and unsuitable.

"I cannot allow this opportunity to pass without answering one or two observations that fell from my Hon'ble friend Mr. Robertson when he replied in the course of the debate which took place in Council in January. I pointed out to this Council that the only ground, the only reason, which prompted Government to undertake this legislation was the installation of electric lights in some of the Bombay mills. I stated then that only in 1905 that this dereliction or default, whatever you may call it, had been committed by the Bombay mill-owners, and that since that year Bombay mill-owners had never worked for more than twelve hours a day. The Hon'ble Mr. Robertson in his reply was pleased to join issue, and to state that that was not the only text which Government had before them. Up to now, Sir, we have not heard of the second text that induced Government to undertake this legislation, and I, for my part, shall be very pleased to be enlightened in the course of the debate to-day on the other reasons that have prompted the Government to undertake this important piece of legislation. I repeat, Sir, what I said previously, that this restriction would handicap our growing Indian industry, and, despite what has been said in the Press, I maintain my allegation. I say that it will strangle the industry in this way. It will not affect us in the least in our competition with the United Kingdom. It will not affect us in our competition with England and Lancashire for the simple reason that we do not come in competition with them; but it will seriously handicap us in our competition with China and Japan. In Japan great progress has been made in recent years, and numerous mills are fast springing up. China is awakening after a long state of torpor. China before long will go in largely for the mill industry, and the result will be serious competition with India. We are gradually losing the Japan market, and once China becomes vigorous and self-supporting, it will be found that the Indian industry will suffer very considerably. Sir, I do not believe in sweating labourers; I am not an advocate of work for more than twelve hours; I do not believe in imposing strenuous hours on the labouring classes. I fight this question simply on principle; I fight this question simply on economic principle. I say it is a wrong policy—a policy which militates against all economic considerations—for Government to undertake a piece of legislation of this description. The Hon'ble Mr. Robertson was good enough to assure the Council the other day that there would be really no danger by restricting labour to twelve hours, inasmuch as mills would not lose anything in the matter of production; in fact, the mills would gain in production; and in support of this, he quoted the opinions of the managers of two of the most prosperous mills in India—I mean those of Cawnpore and Nagpur. Now, Sir, on this subject allow me to draw the attention of the Council to the Report of the Factory Commission. They themselves were extremely doubtful whether this restriction of twelve hours would have any effect on the question of production. In paragraph 53 of their valuable and illuminative Report they state this:

'The information which we have been able to collect on this subject is, however, of but little value; and a sufficient basis has not in general been given upon which to rest any definite conclusions. The conditions affecting production in Indian textile factories include so many

factors, of which the length of the working day is only one, that it is quite impossible to base any opinion of a reliable character upon isolated statistics covering an indeterminate period, such as the majority of the mills have supplied This practice renders it impossible to obtain comparative figures of any value showing the effect of varying hours of work on the output of the operatives in such mills.'

"Sir, the opinions of two expert managers have been quoted, for one of whom I entertain the highest regard; but I may as well ask the Hon'ble Member over there if these two mill managers, whose opinions were quoted with so much force in this Council, were fully convinced that the mills would gain by working short hours. The opinion of one of these gentlemen was to the effect that a 11 hours working day was quite sufficient. Is it too much for me to ask why these gentlemen are waiting for this factory legislation to be passed? Why are they waiting for this Factory Act to be passed to enforce a shorter day? If they were so sure that the mills would not suffer in the end in production, they ought to have set an example before this Act was actually passed, and enforced an eleven hours day. I, therefore, say that the strongest argument, the strongest fact which could be urged against that statement of my friend the Hon'ble Mr. Robertson is the inability of these mills themselves to put into practice what they are so ready to preach. I am afraid, Sir, that this legislation, though the Government's intentions and motives are benevolent, will hardly be of much service. As I said before, Government will be sadly disappointed if they hope that, by passing an enactment of this kind, they will improve the general health and conditions of life of the labouring classes. And here I cannot do better than express the opinion of the Upper India Chamber of Commerce, most of whose members are Europeans, who have expressed themselves with so much precision and truth on this question. The Upper India Chamber of Commerce remark:

'With a twelve hour day imposed by law, it is inevitable that Indian operatives will be compelled to work more strenuously, a condition altogether foreign to their habits and inclinations. This compulsion will not come merely, or even mainly, from the necessity employers will be under of obtaining the output essential to profitable working, but will be the result of the additional effort the operatives must put forth to earn the wages they draw under existing conditions. A longer, but less strenuous, day suits the needs of the Asiatic operative, and it seems to my Committee that Government incurs the gravest responsibility in overturning by drastic legislation conditions of labour which have evolved in harmony with Indian peculiarities of climate and temperament. My Committee regard with serious misgiving the consequences likely to result from arousing discontent amongst all those engaged in industrial enterprises whether employers or employed.'

"I can hardly add anything, Sir, to this explicit statement. The legislation, instead of conducing to the health of the operatives, will tax their energies to the utmost. Employers of labour will demand from them, within those limited hours of work, more strenuous work, and the result, Sir, will ultimately be one which you are seeking here to protect them against. Sir, on this subject I shall not detain the Council much longer, but I shall sound a note of warning to this Council. I am afraid, as Sir John Hewett so ably remarked, this will be a prelude to further legislation in this very Council. There will be a day not long distant when this Council will be called upon to undertake further restriction, possibly from twelve to eleven hours. There will be a day when pressure will be put from England to restrict further this time limit which you are now about to fix, and I venture to state resistance will be then impossible. Then it will be too late for this Council to take up an attitude of protest or opposition, and I submit therefore that this danger ought not to be kept out of sight. But, Sir, if this legislation is to be undertaken at all, I entirely disagree with my Hon'ble friend Sir Vithaldas Thackersey. I do not believe at all in makeshifts; I do not believe at all in adopting subterfuges for the purpose of backing out of a principle which Government may not feel morally justified in maintaining. If Government thinks that there should be a restriction of adult labour, let it openly enforce it, and deal with it in an overt manner, and not adopt the circuitous methods suggested by my Hon'ble friends Sir Vithaldas and Mr. Mudholkar. I may perhaps speak again on this subject later on, but my firm opinion is that, if the principle is sound and acceptable, the situation must be boldly faced, and that Government will not lay itself open to the charge of

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moral weakness in having taken up a position which they themselves were unable to defend. For these reasons I fear I cannot support my Hon'ble friend Sir Vitthalidas. I think I have made myself perfectly clear, and I appeal again to Government before I resume my seat to see their way to remove this arbitrary, unreasonable and injudicious provision from this Bill."

The Hon'ble MR. MONTEATH: "Sir, at the outset I would desire to associate myself with my Hon'ble colleague Sir Vitthalidas Thackersey in his opening expressions of satisfaction and congratulation on the general outline of the Bill as now submitted.

"It will be in the recollection of the Council that when the present Bill was introduced on 3rd January last I reiterated the views of the Bombay Chamber of Commerce in supporting Government in the measures proposed with the one exception of the direct legislation on the limitation of hours for adult male labour.

"The Bombay Chamber are unchanged in their views, and firmly hold to the position they advocated, and much regret that the possibility of indirect legislation in this detail has not been accepted. The Chamber are therefore in full sympathy with the minute of dissent which has been added to the Report of the Select Committee, assigned by six of the members of that Committee, seeing the principle of restricting the hours of work of adult male labour is quite a novel one and has not been recognised in textile factories in any part of the British Empire. I would repeat the statement of the dissenting members of the Committee, in pointing out that the Factory Commission of 1908 emphatically deprecated such restriction and showed there was no necessity for the adoption of such a drastic course.

"Under the circumstances I hope that even at this late stage the Government may give way on this point where there is undoubted feeling—a point which many think will cause inconvenience and hamper enterprise. In other respects I feel the Bill as submitted by the Select Committee is both useful and workable in its present form.

"I know there are several amendments proposed covering the above point, but these amendments include other suggestions, such as altering the hours for children, or eliminating the clause limiting the use of machinery. If the amendments of each Member are taken *en bloc*, I shall be unable on behalf of the Bombay Chamber to support them, as they prejudice the general principles of the Bill, which is not what the Chamber have any desire to frustrate."

The Hon'ble MR. MUDHOLKAR: "Sir, I wish to associate myself with the remarks which have been made by my friend Sir Vitthalidas Thackersey in making our acknowledgment to the Hon'ble Mr. Robertson for the very able and conciliatory manner in which he has conducted the proceedings in Select Committee on this intricate and complex measure. With him I should like to associate also the name of one who was working, it might be said, behind the scenes, but who, we know, has helped him considerably in the framing of that measure and in giving advice at the various stages of the proceedings. I refer to my Hon'ble friend Mr. Fremantle. With the general principles of the measure I am in entire accord. The only difference between the majority of the members of the Committee and those who have signed the minority report is in regard to sections 28 and 31 of the Bill. It is regarded and described as the central principle of the Bill. But if the suggestions which we shall make when we come to the actual moving of amendments and with the observations I shall presently submit to the Council, it will be seen that there is hardly any difference in regard to essential results between the proposal of Government and those which have commended themselves to my friend Sir Vitthalidas Thackersey and to me. There is one misconception which seems to prevail in regard to our attitude which I will ask the Council to permit me to clear up. It seems to be thought that those who do not accept sections 28 and 31 have no sympathy with the working classes, that they are advocates of excessive working, and that it is personal considerations which have actuated this attitude. Sir, I wish to assure this Council that it is in the interest of the country, and of the great industry which is regarded

as the most important one, that we deprecate the proposed direct limitation of hours of labour. The textile industry is in importance second only to the agricultural one. It is working amidst great difficulties. Taking that section of it which is carried on with the aid of power-driven machinery, it is necessary to remember that it has to fight against great odds. The machinery has to be obtained from abroad. Its cost here is more than what it is in the countries of the West. Industrial capital in India is comparatively small. The operatives are ignorant, untrained and very inefficient. Even the overseers and managers are not as highly qualified as those in Europe or America. The result is that the cost of production in India is greater. It is a mistaken notion that labour is in this country helpless and entirely at the mercy of the capitalists. The rise in wages which is observable everywhere shows the fallacy of this belief. Owing to deaths from famine, plague and epidemic diseases, efficient labour-supply has undergone diminution. With the springing up and spread of new industries a further restriction of labour available to the cotton industry has taken place. Instead, therefore, of the operatives being at the mercy of the capitalists, it is the latter who have to conciliate and humour the former.

"It is on a consideration of practical difficulties like these and not on mere abstract grounds of the doctrine of *laissez faire* that legislative interference with adult male labour is deprecated. Reference was made by the Hon'ble Mr. Robertson to a statement in the evidence I gave before the Factory Labour Commission. I would in fairness to myself and to the class I am deemed to represent crave the permission of the Council to quote what was said in another part of my evidence :

'It was his opinion that twelve hours work a day was the limit where men worked continuously, but taking into account the conditions of work in India, *viz.*, that adults cannot work continuously at a stretch for more than three or four hours, the nominal hours of labour must be longer. On his present physique the Indian operative was incapable of applying himself intently to any kind of work for six hours without intermission.'

"In another portion of my evidence I had to point out the distinction between nominal hours of labour and the period of actual employment of each operative observed in practice. It will thus be seen that as to the desirability of limiting the average working day to twelve hours there is no disagreement on principle. What is objected to is the direct limitation by a legislative provision.

"I would point out to the Council that clause 29 as it exists in the Bill when worked with the amendment proposed will produce the identical result that clause 28 is designed to do. 'No person shall be employed in a textile factory before half past 5 o'clock in the morning or after 7 o'clock in the evening.' This gives 13½ hours as the total period during which a factory can work. Deducting out of this the half-hour stoppage of all work after the first six hours and the further one hour after the second period of six hours, there will remain only 12 hours of actual employment.

"If the attainment of a certain result is all that Government aim at, there is no reason why this amendment should not be accepted. It might be asked why we, who are prepared for an indirect method which produces the same result as clause 28, are unwilling to accept this clause.

"The fears of those who are opposed to direct restriction by legislation on the hours of male labour is pithily summed up in the note of Sir John Hewett drawn up for the Factory Labour Commission. His Honour said :

'I recognise the objections to the regulation of the hours of adult male labour by law, and I fear that, if legislation is now undertaken to limit the working hours of adult males to 12 or to 13 hours, it will not stop, but that attempts will be made in the future—not always suggested merely by the idea of doing justice to the operative—to still further restrict the working hours of adult males.'

"As to how such a law would be regarded by the operatives themselves I would again quote that same authority :—

'I am not sure that a limitation by law to 12 or 13 hours will be popular with the operatives themselves, since it must lead either to the reduction of the earnings or to their having to work more strenuously than they do at present.'

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"I have no right to rank myself as a capitalist with men like the Hon'ble Sir Vithaldas Thackersey, Sir Sassoon David or the Hon'ble Mr. Birkmyre. I do not claim to represent that considerable section of middle class Indians who have for the sake of raising the economical status of their country and mitigating the poverty of the masses applied themselves to the study of industrial questions and the development of industries. Their own countrymen and the working people under them know why these persons have courted responsibility, labour and often pecuniary losses. I believe, Sir, the Government have been keeping themselves informed of the views expressed on this subject by the Indian Press, I mean that section of it which writes with knowledge, restraint and a sense of responsibility. If one thing is clear, it is that that Press as a whole strongly opposes this direct limitation by legislation. The class I represent is not answerable for the temporary excessive working in Bombay or the disregard of the law in some places. Their sympathies with the working classes are genuine and substantial. They do not want sweating, whether it be textile factories or printing presses, but they do want the Government to see that this can be accomplished by the indirect method, that is, by working on lines similar to those of the English Factory Law. Sir, it has been stated that if there are to be limitations imposed on the hours of working, the best method would be the direct method. All I have to say in regard to this suggestion at this stage is that we are only following the methods of the English law in proposing the adoption of the indirect method. The English Acts, Sir, have by laying down regulations in regard to the employment of women and children brought about the limitation of the working hours of the factories. I do not see, Sir, why we should not follow that method and establish a 12 hours' working day for all practical purposes by indirect methods similar to those employed in England."

The Hon'ble MR. QUIN: "Sir, there are just a few remarks of a general nature which I think I can most suitably offer at this stage. The Bombay Presidency can justly claim to be interested in the provisions of the Bill as much as, if not indeed more than, any province in India. Bombay is the great centre of the cotton industry, and it was the experience of Bombay in the year 1905 which may be said to have started the movement for reform of the factory law which is about to reach a successful culmination in the passing into law of the Bill which is before us to-day.

"Notwithstanding this, Sir, there is not very much which I have to say on this occasion, because the Bill has emerged from the Select Committee in a form which is generally satisfactory to the Government of Bombay, whom I have the honour to represent in this Council, as I hope it may be to this Council also. The crying needs of the situation which was found to exist in Bombay in 1905 were, in the first place, increased protection for the children employed in textile factories, and secondly, effective provision to render impossible the undue exploitation of adult male labour.

"The provisions of Chapter V of the Bill as amended by the Select Committee are, so far as can be judged in advance, eminently suitable for the attainment of these objects. Clauses 28 and 31 provide directly and specifically for the establishment of a working day of not more than 12 hours for all persons employed in a textile factory, while clause 32 prescribes that no child shall be employed for more than 6 hours, the period recommended by the Commission.

"So long as these clauses remain in the Bill I have nothing more to say about them, but it will be my duty to oppose any attempt which may be made either to render them ineffective or to delete them from the Bill.

"As regards children, Sir, it is, I think, known to the Council that the Government of Bombay would have liked to see the age at which a child may begin factory work raised from 9 to 10. This concession to an enlightened humanitarianism was not recommended by the Factories Commission, and it is not one which the Government of India have thought fit to allow; but the fact that a child will still be permitted to be employed in a factory at the tender age of nine is surely a good reason why special care should be taken to ensure

that he or she cannot be compelled to work excessive hours. The deliberations of a strong and representative Commission have resulted in the recommendation that children should not be permitted to work for more than 6 hours in one day, and on behalf of the Government of Bombay I am to urge strongly, that effect should be given to this recommendation in the enactment now before this Council. It is to be regretted, Sir, that the proposal for a daylight working day, as an optional alternative to the fixed 12 hours day, a proposal which has the support of some of the mill-owners in the Bombay Presidency and specially those of Ahmedabad, could not be adopted by the Select Committee. There is much to be said in favour of a natural working day in localities where the working hours would never at any time in the year exceed 12½ or 13; and if special provision can be made in the Bill for mills worked by a system of shifts, it is not clear why the difficulties presented by the daylight day should be regarded as insuperable.

"It seems probable, however, that the special provisions, if made, would be availed of by a few mills only, as the average daylight day would work out to some 15 minutes less than 12 hours, and it is not likely that many millowners would handicap themselves by adopting it. In all the circumstances, therefore, I do not press for any further consideration of this matter at the stage which has now been reached. What I do hope, Sir, is that neither doctrinaire considerations, based as I venture to think on a misapprehension of sound economic theory, nor misgivings of an imaginary danger which the future may hold in store for our manufacturing industries, will be permitted to interfere with those provisions of the Bill as it now stands which give direct prohibition to excessive hours of labour in textile factories—provisions which are, in my opinion essential to the success of our legislation.

"What is wanted, Sir, in my humble opinion, is a 12 hours day for adult males and a day of 6 hours for children; and I feel that if we do not get them in this Bill we shall lose a great opportunity not only of ameliorating the condition of the toiling masses in our factories but also—and this is my honest belief—of serving in the long run the best interests of the employers and of the industries upon whose prosperity the welfare of this country so largely depends."

The Hon'ble MR. CLARK: "For one reason at least, Sir, I am glad that the Council did not accept my suggestion that we should proceed at once to the amendments: it has enabled me to add my tribute to the work done by the Select Committee who have considered this Bill, and especially by my Hon'ble friend Mr. Robertson who had charge of it on behalf of the Government. The work, I think, has been excellently done, and although I was not present myself, I have had ample reason since to know what a large share in its successful issue was due to the Hon'ble Mr. Robertson.

"I think I had better say at once that Government cannot possibly agree to withdraw Chapter V of the Bill, which contains the provisions for the restriction of hours of adult labour in textile factories.

"What after all are the real objections to these provisions? The Hon'ble Mr. Dadabhoj has told us that these provisions will strangle an infant industry. The cotton industry of Bombay, to put it mildly, is a well grown infant, and it is almost impossible to believe that the restriction of working hours to 12 could seriously impair the output or energies of a well-organised industry. The Hon'ble Mr. Dadabhoj referred to what my Hon'ble friend Mr. Robertson said, on the motion to refer the Bill to a Select Committee, as to the effect of reduction of hours on production. The Hon'ble Mr. Dadabhoj quoted certain passages from the Report of the Factory Commission in which they referred to the difficulty of assessing accurately the effect of such a reduction. Of course, that is a thing that you cannot possibly do. You cannot assess the effect to a close and accurate figure. But at same time, if the Hon'ble Member had read further on in the report, he would have seen that some of the best managed mills in the country have adopted shorter hours for the very reason that they found it paid them better. The Cawnpore Cotton Mill, for instance, has adopted a 12-hour day since February 1907 after experimenting as to the most suitable working hours from an economic standpoint. In the case of the Elgin Mills

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at Cawnpore, the management found that a 15-hour day led to bad work, great waste and uneconomical working. They reduced the hours gradually to 12 and have been working 12 hours a day for the last 8 years. Mr. Bezonji Dadabhoy, manager of the Empress Mills, Nagpur, has appended to his written evidence certain statements showing the effect on production of working days of varying lengths. These statements show that over a period of ten years the production per spindle per hour is on the average higher the shorter the working day. The Commission themselves say, summing up the whole question :

'We incline to the opinion—though we readily admit that we cannot produce any satisfactory statistical evidence likely to convince others—that the general adoption of a 12-hour day in textile factories in India would not materially reduce the output below that at present obtained in 13 hours. Production would probably fall off at first to a considerable extent; but we believe that this would gradually be rectified, and that within a short time the production under a general 12-hour day would probably equal that now obtained by working for 13 or 13½ hours.'

"Well, Sir, I think that in view of that pronouncement it is impossible to maintain the suggestion that the mills would be ruined by this restriction. Indeed, if the Government are to be accused of ruining the mills in that way, the same charge would apply—and it shows how very inapplicable the charge is—to the proposal put forward by the Hon'ble Sir Vithaldas Thackersey himself. I think he claims that his daylight day (and certainly the Hon'ble Mr. Quin has supported that view) would produce a working day all the year round of not more than 12 hours, and he similarly claims that the proposal that there should be an hour's interval after every 12 hours work would have the same effect. Well, it is hardly to be believed that the Hon'ble Sir Vithaldas would put forward a proposal which he considers would seriously impair the interests of the mill industry in India.

"I do not propose now to discuss the merits of these two proposals, the daylight working day and the other of the Hon'ble Sir Vithaldas' proposals, because there are amendments put down in respect of them which will have to be considered later on. But there were two points which were mentioned by the Hon'ble Sir Vithaldas to which I may refer. He urged the appointment of a Chief Inspector. It is not, however, necessary to put provisions in the Bill for such an appointment, as it would be open to the Government of India, if it is found necessary to appoint a Chief Inspector later on, to make such an appointment without special powers. All that would probably be necessary would be that each province should confer upon the Chief Inspector powers of an Inspector within their borders. In that way the point could be met. We did not consider it desirable to put anything about a Chief Inspector into the Bill until we should be in a position to say whether a Chief Inspector would be required or not.

"If I may say so, I think the Hon'ble Member's suggestion that there should be annual conferences of Inspectors is an exceedingly good one. It would produce unity in the policy pursued and in every way would tend to good administration.

"Another point to which he referred was the question of ventilation and the establishment of a standard for the purity of air in factories. This point is under consideration. The Factory Commission recommended that a Committee should be appointed to consider it, and the question of appointing a Committee is under the consideration of Government and will be taken up as soon as the Bill is passed into law.

"I do not think I need say anything further, Sir, on the general question, and I propose that we should proceed now to the consideration of the amendments."

The motion was put and agreed to.

The Hon'ble SIR VITHALDAS D. THACKERSEY: "Mr. President, I beg to move that in clause 2, sub-clause (9), of the Bill as amended by the Select Committee, the following words be added at the end of the proviso, namely:—
'whether they be separate works or situated in the compound of a textile factory.'

[*Sir Vithaldas D. Thackersey ; Mr. Dadabhoj ;* [21st MARCH 1911.]
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"Sir, this question was raised in the Select Committee and it was thought that it would meet the case if power were given to Local Governments to treat as different factories branches which are situated in one compound, and with that view section 53 was added, where power is given to the Local Government to do this. The section runs thus:—

'The Local Government may, subject to the control of the Governor General in Council, by special order in writing, direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories.'

"Also it is true that in section 21 provision is made that the half hour interval is not to apply to bleaching and dyeing works, and in that way to a certain extent the inconvenience which I seek to remove will be avoided. But the Bombay Millowners' Association think that it would be made quite clear if this clause was added to section 2 (9) so that under that section every branch other than the real textile branch will not be a textile factory under the Bill. That is the view taken by the Bombay Millowners' Association, and, as its representative here, I think that the amendment should be passed. I therefore move it."

The Hon'ble MR. DADABHOJ : "I beg to support it."

The Hon'ble MR. CLARK : "I must point out, Sir, that this amendment, if accepted, might give rise to considerable difficulty in administration. It is impossible to give a clear definition of what would be within the compound of a textile factory, because the limits of a compound are not always clearly marked. In any case I really think it is hardly necessary to put in a provision of this kind. If the Hon'ble Member will turn to clause 53, he will see that powers are given to Local Governments 'subject to the control of the Governor General in Council, by special order in writing, to direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories.' I think that safeguards the point he has in mind and renders this amendment unnecessary."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "I beg to withdraw it."

The amendment was withdrawn.

The Hon'ble MR. CLARK : "I beg to move that to clause 18 of the Bill, as amended by the Select Committee, the following sub-clause be added, namely :

'(1) Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.'

"Clause 18 of the Bill, Sir, deals only with the fencing of machinery. Dangers may arise in other ways than merely by machinery being improperly fenced, and it seems desirable to take powers to secure sufficient safeguards being provided. In nearly all provinces at the present moment there are regulations in regard to running belts—as to the clothing of the men who are attending to them, and other particulars—in order to prevent accidents. At the present moment there is no statutory prescription behind those regulations, and it seems desirable in order to put the thing on a proper basis that such prescription should be inserted in the Bill."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "Mr. Chairman, so far as the first part of the amendment is concerned, I do not wish to oppose it. 'Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery.' I agree to it. But the latter part—'or boilers of any factory'—I strongly oppose. I am opposed to the introduction of the word 'boilers' in this section. So far as the general provisions of the Act apply to factories, including boilers, these provisions are unobjectionable, but when you bring in danger from boilers, in section 28, and give power to inspectors and also to Local Governments to make rules, it means that for the boilers there would be dual control. There is a special Act, which deals specially with the danger arising from boilers, and if we give power under this Bill to the factory inspector to deal with the dangers

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arising from boilers, it means that the factory-owners will have to deal with the inspectors under this and also the inspectors under the Boiler Act. I have not been able to go into this question thoroughly, but I do not know whether difficulties may not arise as to procedure. Under the Boiler Act, when we appeal to Government, a Commission is appointed, and so on. Under the Factory Act there is a different procedure for appeal, and I submit that as the matter has not been considered by the Select Committee, and as the Council has had no opportunity of going into the details of what the actual effect of these words may be on the ultimate working of the Act, Government should not press for these words to get into the Act at this late stage. It may be that, if we had considered the whole question in the Select Committee, we might have come to the conclusion that there was no danger in introducing these words; but I do submit, Sir, that *prima facie* it seems that there are strong reasons why these words should not go into the Factory Act.

"I may point out, Sir, that the English Factory and Workshops Act, it is true, contains certain provisions for the safety of hands against danger from boilers; but it must be remembered that there is no special Boiler Inspection Act in England. The boilers in England are examined through the private agencies at the option of the factory-owners. Section 10 of the English Act deals with the fencing of machinery and section 11 deals with steam-boilers. It runs:—

'Every steam-boiler used for generating steam in a factory or workshop or in any place to which any of the provisions of this Act apply must, whether separate or one of a range,—

(a) have attached to it a proper safety-valve and a proper steam-gauge and water-gauge to show the pressure of steam and the height of water in the boiler;'

and there are other things mentioned in this Act; but there is no special Boiler Inspection Act in England, and therefore the whole Act is one. In India, as there is a special Act, I strongly oppose the introduction of these words 'or boilers' into this section and especially for the reason that at this late hour they should not be introduced."

The Hon'ble MR. MUDHOLKAR: "Sir, I am glad my friend the Hon'ble Sir Vithaldas Thackersey has pointed out this difficulty. I must confess I looked into this matter only this morning, but it was to little purpose, as I have not with me the Boiler Inspection Act which is in force in Bombay, and which, with slight modifications, has been applied to the Central Provinces and Berar. I could not get a copy here. I have therefore to go on my recollection of the provisions of that Act. The thing is this: under that Act the inspector of boilers is invested with powers, and under certain of its provisions he is empowered to give orders and issue directions. The result of the present Act would be that the inspector of factories, who, we understand, is to be altogether a different personage from the inspector of boilers, might pass one set of orders and another set of orders might be passed by the inspector of boilers. What might be considered proper and sufficient by one might not be considered proper and sufficient by another. In regard to this conflict of authority, I pointed out in the Select Committee that when there were a number of inspectors, there were at times different orders passed by different inspectors, and factory-owners found it difficult to carry on their work until the matter was carried to a higher authority. I think there is a likelihood of overlapping of jurisdiction and conflicting orders. I think the subject is one which should have been brought in the Select Committee and considered there. It really is a matter of detail requiring the examination and comparison of the two Acts. It is not at all convenient to consider it in Council and it should be dropped."

The Hon'ble MR. MONTEATH: "Sir, I fully support the remarks that have been made by the Hon'ble Members who have just preceded me, as I do not think it desirable to have dual supervision over boilers in factories."

The Hon'ble MR. CLARK: "The Hon'ble Sir Vithaldas Thackersey very courteously informed me that he was going to raise this point and we have had time to verify our reasons for including the words 'or boilers'. The Boiler

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Inspection Act relates solely to the prevention of explosions, and there is no proposal here to interfere in any way with the working of that Act. What we have in mind is the prevention of accidents to men who are stoking boilers and attending to the automatic feed arrangements now in use, and that covers quite a different ground from that affected by the Boiler Inspection Act. There is no danger of the function of factory inspectors overlapping with those of inspectors under the Boiler Inspection Act. I may add that the regulations will be published before they are put into force, so that it is not as if we were immediately imposing a new requirement on factories."

The Hon'ble SIR VITHALDAS D. THACKERSEY: "Mr. President, I beg to raise a point of order—whether it is in order to introduce new matter at this late stage into the Bill in this Council, which has not been considered by the Select Committee and which has not also been considered by the country at all. Of course, Government can carry it through; but, I submit, it is most unfair to the industry and the country that at this late stage it should be introduced."

THE PRESIDENT: "I do not think that the moving of an amendment of this kind is out of order. It may be inconvenient and therefore it is a course which is to be avoided as far as possible. But in a question of this kind in which the amendment is very nearly related to all that has been considered in the Bill and with regard to which there are many Members in this Council who have full information, I do not think there is any objection to its being placed before the Council."

The Hon'ble SIR VITHALDAS THACKERSEY: "I bow to your decision. But I would suggest to the Hon'ble Member that a few words be added to this in order to make it clear. The section should run thus:—

"Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory which are not provided under the Boiler Inspection Act."

"The dual control is objectionable, and we want to prevent it. It is very easy to say that dual control will not be there, but when a power is given to the factory inspector and the inspector of boilers, it is impossible to prevent dual control. We must make it clear that the intention is not to overlap the powers under the Boiler Inspection Act."

THE PRESIDENT: "I am afraid it is too late to enter upon a discussion of that kind at the present time."

The amendment was put and agreed to.

The Hon'ble SIR VITHALDAS THACKERSEY: "Mr. President, I beg to move that to clause 21, sub-clause (1), of the Bill as amended by the Select Committee the following proviso be added, namely:—

"Provided that in the case of a textile factory, after it has worked for twelve hours, further work shall be discontinued for not less than one hour."

"Mr. President, this amendment is one of a series of amendments intended to secure the 12-hours day as desired by Government and, therefore, on the vote on this amendment will depend whether the other amendments shall be moved or not. Therefore, with your permission, I will explain to the Council how this amendment will affect the situation. I explained to the Council in my first speech that so far as the 12-hour day is concerned, I support it."

"I do not agree with my friend the Hon'ble Mr. Dadabhoj that the mill-owners should have unrestricted license to work adults as long as they like."

The Hon'ble MR. DADABHOJ: "Sir, you will permit me as a personal explanation to mention that that statement is entirely incorrect. During the debate in this Council in the month of January, and to-day too, I had made it explicitly clear that I did not want the labouring classes to be worked for more than 12 hours: I have been fighting for this principle."

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THE PRESIDENT : "The Hon'ble Member must not exceed the scope of his explanation, and I have no doubt the Hon'ble Sir Vithaldas Thackersey will take note of that explanation."

THE HON'BLE SIR VITHALDAS THACKERSEY : "I accept, Sir, the explanation of the Hon'ble Mr. Dadabhoy, and I am very glad to see that he does not advocate more than 12 hours' work for adults, because if he had gone over the country he would have found that sometimes, in spite of all our ideas about liberty, we feel, when we see the hands working for 13 or 14 hours, that it is not at all just and fair to the work-people. I have gone all over the country, and in spite of my own interests in the industry, I have often felt that it was very hard to work adults for more than 12 or 12½ hours. However, there is only one remark of the Hon'ble Mr. Dadabhoy that I will refer to. He says that, if the Government are convinced that 12 hours a day must be the working day, it is quite straightforward to come and put 12 hours a day in the Act instead of by an indirect way. Well, Sir, I must make my position clear. I am not suggesting these amendments with the idea of what may be called indirect restriction; I am only extending the existing principle of the Act, and if, by extending the existing principle, the result comes to the same as a direct restriction, I do not see why Government should not accept my amendment in place of the direct restriction which has been objected to so strongly by my friend the Hon'ble Mr. Dadabhoy in spite of his desire that mill-owners should not have unrestricted license. There is no section in the English Act which provides for an interval of rest for adults; there an interval of rest is provided for young persons and children and women only. In the Indian legislature that principle has been admitted. After a particular number of hours, adults must get an interval of rest for food or drink, or for other purposes. The existing Act provides that there shall be at least a stoppage of half an hour between 12 and 2 in every factory. The Factory Commission altered that clause and said that we should have half an hour's interval after every 6 hours. The object was very clear under the old Act; mills must stop at 12 or half past 12 or 1 o'clock or half past 1. The Commission felt that, with the new conditions of working 12 hours a day, radical changes will have to be made in the actual working of factories. At present the usual system is for mill-hands to eat near the machines at about 9 o'clock or half past 9 o'clock; they go out whenever they like; they work whenever they like; there is practically no restriction on their liberty. The Commission naturally thought that as practically their recommendation amounted to 12 hours a day, some arrangements might be made by which the hour of interval should coincide with the convenience of the hands, that is, half an hour might be given between half past 9 and 10 o'clock in the morning so that all hands can take their meals at the same hour every day, so that, during the other hours, mill-hands may regularly be at the machines. If you give an interval at 12 o'clock, the hands will refuse to remain hungry till 12 o'clock. And it was with that object in view that the Commission laid down that there should be half an hour's rest after every six hours of work, naturally believing that it would be to the mill-owners' convenience and that it would enable the hands to get half an hour's rest at half past 9 or 10 o'clock, and another half an hour at half past 2 or 3 o'clock, and that the rest of the time they might be at the machines working and thus bring forward better working and also better production at the same time. With that object we introduced section 21 in the present form. The words are that 'in every factory there shall be fixed for each working day, at intervals not exceeding six hours, periods of not less than half an hour, during which all work shall be discontinued.' Now, my suggestion extends this principle. If the Indian legislature have admitted into the Indian Act that 'interval of half an hour is necessary after every six hours' work,' certainly it is quite fair to say that at least one hour is necessary after 12 hours' work. I will give you an instance. In flour-mills work is going on night and day for six days in the week. There are night shifts and day shifts. Suppose at the end of the day shift, at the end of 12 hours, a man that relieves the other does not turn up, what happens? The machines do not stop; other people who are working them

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manage the machines for the time being, and the man who has worked for 12 hours goes home, takes his meal and turns up after an hour or an hour and a half and continues to work the machine until the other man turns up. If the other man does not turn up, the man, besides his day shift, takes the night shift also, and takes 12 hours' interval afterwards. On that principle, Sir, I propose that after 12 hours' work there should be an interval of one hour. Sir, it is in order to make my position very clear that I have moved this, and also on the ordinary ground of humanity. Well, if by the introduction of this principle and by the introduction of this section in conjunction with section 29, the effect is that you cannot get more than 12 hours' work, that is not a charge against us or against Government that you are introducing what you call an indirect way of restricting the hours of labour. Government's object is to get 12 hours' work: Government get it in conjunction with section 29. Why should direct restriction be introduced in this Act, which, I have said in my previous remarks, would deprive the Government itself of the power of protecting us, when Government would really believe that the protection of Indian industry was necessary against Lancashire or other interests? Our object is quite clear. We have not kept our object secret. We have plainly shown how that can be done without introducing the principle of direct restriction, and therefore I do not see why Government should not accept this proposition.

"That is one way which I am proposing now. Now, there is another way which was proposed by the Hon'ble Mr. Birkmyre, that is, if you get half hour intervals under section 21, then you reduce the hours of work to 12 by providing in clause 29 the starting time at 6. While that will have the same effect, I understand that the said amendment has fallen to the ground because there is opposition to the extension of the hours of children to 6½. Naturally the jute mill-owners may claim that as they are getting 13½ hours' work under the shift system, they are not prepared to reduce 13½ hours' work to 13 hours, if they do not get the advantage of employing children more conveniently. There is not the slightest doubt about it that, if anybody will suffer monetary loss by the Report of the Factory Commission, it will be the jute mill-owners. I see that there is a strong opposition from the Local Governments and from many of the Members here and naturally the Hon'ble Mr. Birkmyre may not place his amendments before this Council, as jute mill-owners are not prepared to agree to 13 hours' work without an extension of children's hours. I do not take therefore into consideration the Hon'ble Mr. Birkmyre's amendment although that is another way of doing it. Therefore, the only way which I think is proper and which the Government might freely accept, is the proposition that I have moved that at the end of section 21 (1) add the following words:

"Provided that, in the case of a textile factory, after it has worked for twelve hours, further work shall be discontinued for not less than one hour."

"As I have said, it does not alter the length of the day, it does not increase the working hours of men. It is only a method, and I leave it to Government to say whether they are prepared to accept this method or not."

The Hon'ble MR. DADABHOJ: "Sir, I strongly oppose this amendment. The amendment proposed by the Hon'ble Mr. Birkmyre stands entirely on a different footing from the amendment proposed by my friend the Hon'ble Sir Vithaldas Thackersey. If the Hon'ble Mr. Birkmyre presses his amendments I shall be glad to support him, because they are more far-reaching in their effects, and involve certain principles which are not covered by the proposal of my Hon'ble friend Sir Vithaldas. I have said before that there should be no doubtful method or circuitous action in matters of administration. The law should be as plain and simple as possible; and if a principle is acknowledged and if it is right and proper, the principle ought to be respected, and should not be set aside by introducing an indirect method.

"My friend, the Hon'ble Sir Vithaldas, has referred to the Report of the Factory Commission in which they recommended an indirect method

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in preference to this direct restriction; but that method, too, is entirely different to that now suggested. What the Factory Commission recommended was the creation of a 'young persons' class which would automatically have a similar effect and restrict the hours of labour. I am not quite sure whether I should have supported that proposal. There are serious objections to that proposal; but because they suggested an indirect method which might appeal to some, there is no reason that this entirely new method should be accepted. Sir Vithaldas has asked why should the Government accept a novel principle in legislation, when by stopping the mills for one hour in the evening the same purpose can be served? But I think his proposal is equally novel, and I oppose it because, to my mind, it appears to be absolutely unpractical and meaningless. What mill would ever think of resuming work after an hour's stoppage in the evening? And if any work has to be done, it would be done by separate and entirely new shifts. Moreover, the conditions of labour in this country make it absolutely impossible during all the months of the year to have over-time or night work. Even in ginning factories and presses, where people perforce have to work extra hours, employers find considerable difficulty in obtaining labour, and in the case of textile factories it is practically an impossibility. I, therefore, think that it is much better for Government to boldly face the situation, and say, if they are going to have this restriction, that they would adopt the direct method which will leave no room for any doubt or evasion, and which will, at any rate, make the practical working of the Act smooth and easy. For these reasons I oppose this amendment."

The Hon'ble Mr. MONTEATH: "Sir, my previous remarks have indicated that the Bombay Chamber of Commerce hold pronounced views favourable to the amendments put forward by the Hon'ble Mover.

"After the exhaustive explanation put forward by the Hon'ble Sir Vithaldas Thackersey, I should be only wasting the time of Council to merely repeat.

"I would however only emphasize that the proposal does not suggest or allow of prolonging the 12 hours day but legislates for it in a feasible indirect way.

"I therefore beg to support the amendment."

The Hon'ble Mr. MUDHOLKAR: "As I have given notice of an amendment to section 21, which in terms is almost identical with that moved by my friend, the Hon'ble Sir Vithaldas Thackersey, I would, instead of moving mine separately, give my support to this. All I would say on this amendment is that I support what my Hon'ble friend has put forward, that it is an effective thing and will achieve the object which Government have set before themselves, *viz.*, of having a 12 hours' day without any attempt or possibility of aim at evasion. I do not wish to add now to what I have already said a short while ago that, as we would have only 13½ hours during which a mill can run with the same number of workers and since 1½ hours will be deducted from that working time, we shall be securing by what is called the indirect method the very object which Government have set before themselves. There is no resort here to what is called doubtful methods or circuitous action, as my friend the Hon'ble Mr. Dadabhai has characterised the proposal of Sir Vithaldas."

The Hon'ble Mr. CLARK: "There is one peculiarity about this amendment which if accepted would make it unique in the history of legislation. The wording of the amendment suggests an intention diametrically opposite to that indicated by the Hon'ble Member who has moved it. He has explained to us that it is intended to provide a 12 hours' day in factories, and I may say at once that, as regards the non-shift factories, so far as one can see, it would have that effect when taken in conjunction with section 29. But the wording of the amendment is—

'Provided that, in the case of a textile factory, after it has worked for twelve hours, further work shall be discontinued for not less than one hour.'

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"This implies that after the one hour has elapsed you can start work again. I think an inconsistency like that is really a serious drawback. It is a well known principle of legislation that an Act should, as far as possible, bear its meaning on its face, and in this case the meaning really is almost the opposite of the effect which the Hon'ble Member wishes to produce. We seem somehow to have drifted into a discussion partly of the Hon'ble Mr. Birkmyre's amendments as well as of those moved by the Hon'ble Sir Vithaldas Thackersey. The Hon'ble Mr. Birkmyre's amendments will come on shortly, but I think I may say, as the point has been referred to, that there is this difference between the proposal of Sir Vithaldas Thackersey and that of the Hon'ble Mr. Birkmyre, that the latter is, so to speak, self-contained. If you shorten the 13½ hours' factory day by half an hour, then the operation of clause 29 produces a 12 hours' working day. In this amendment, after working 12 hours, you have to add an hour for rest and then you may start again."

The Hon'ble SIR VITHALDAS THACKERSEY: "I do not propose to omit section 29: I want to keep section 29."

The Hon'ble MR. CLARK: "I know the Hon'ble Member means to keep section 29; but that does affect what I have said. You have to work for 12 hours, then you have to add an hour's rest, which gets you beyond the limits of clause 29. No doubt after that hour's rest it is not likely that in practice work will be resumed; but in principle there is nothing to prevent its being resumed, and consequently the amendment does not safeguard the principle of a 12 hours' working day."

"A further difficulty arises in regard to factories working in shifts. If clause 28 is abolished, there will be no means of restricting hours of labour except through the sanction of the inspector being required to the system of shifts adopted. Now, in this amendment you have not only taken out the definite restriction to 12 hours contained in clause 28, but you also apparently lay down a principle that, subject to certain conditions, employes in textile factories may work more than 12 hours. If the inspector, in deciding whether or not to sanction a system of shifts, looks for guidance to this clause as the Hon'ble Member would wish to amend it, he will therefore find in it exactly the principle which you do not wish him to find. I think that is a very serious objection. Government would not object to accepting an indirect method of achieving their result in place of the direct method embodied in the Bill, if they were perfectly clear that the indirect method would produce the desired effect both as regards shift working and non-shift working. The great difficulty is to devise a system that would fit in the shift working, and I am afraid I cannot pretend to think that Sir Vithaldas Thackersey's amendment would meet the case. The Government therefore cannot accept this amendment."

The Hon'ble SIR VITHALDAS THACKERSEY: "Sir, in replying to this debate I am very glad that the Government have approached my amendment with an open mind instead of at once saying that they are not prepared to accept it. If you will permit me, Sir, I will be able to satisfy the Hon'ble Mr. Clark, if he is open to conviction, that it would be practically impossible for any factory to work more than 12 hours under my amendment. Section 29 says that no person shall be employed in any textile factory before half past 5 o'clock in the morning or after 7 o'clock in the evening. Suppose we begin at half past 5, as I explained in my first speech, we should have to close down at 11-30. We would re-start at 12 and would shut down at 6 o'clock. Under section 21 we have to give one hour's compulsory stoppage. This would come to 7 o'clock. Under section 29 the mill cannot start again. So in that way, so far as non-shift mills are concerned, it is quite clear that they cannot start work. So far as shift mills are concerned, I understand that there is some difficulty because this section 21 and also section 29 provide that nothing in sub-section (1) shall apply to any work performed by any person while employed in accordance with the system of shifts approved by the inspector. I understood, Sir, from the remarks which fell from the Hon'ble Mr. Clark when he referred to the Hon'ble Mr. Birkmyre's speech in the Legislative Council here on the 1st of March that he did not find any difficulty so far as the working of that

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exemption was concerned. What was Mr. Birkmyre's amendment? Mr. Birkmyre's amendment was to start at 6 o'clock and close down at 7. For one-shift mills it was quite clear that under section 21 they could not work more than 12 hours. As for the shift system, what prevented unscrupulous mill-owners from working 13 hours in one shift? I understood from Mr. Clark's remarks on that occasion and from the general tenour of the discussion that the very fact that 'nothing shall be applied to shifts' meant that inspectors will take care that no hand worked for longer than 12 hours, or whatever the Government may desire. Well, if that is the real difficulty, and Government are still willing to co-operate with us in bringing this principle into operation, the best thing is to amend this proviso. We may add, 'no inspector shall approve of any shift unless every person in the shift gets interval in accordance with section 21.' This gives to each person according to section 21 an interval of half an hour within 6 hours. With reference to the Hon'ble Mr. Birkmyre's amendment, I thought the Hon'ble Member in charge was quite satisfied that the inspector would see that no one worked for more than 12 hours. He did not raise that question. Then on the same principle, if the proposal of the jute trade was acceptable to Government, this must be equally acceptable. I would, therefore, submit, Sir, that either we must accept this on the position taken up by the Government on the 1st March or alter this proviso by which each individual will get an interval according to section 21."

The Hon'ble Mr. CLARK: "I am sorry there has been some misunderstanding in regard to what I said, or rather did not say, on the 1st March. I did not refer to non-shift factories at all; I did not mention them because the amendment did not touch any clause affecting them. The same misunderstanding which has affected the Hon'ble Sir Vithaldas Thackersey has also affected the view of some newspapers on the subject. As regards his further proposal—"

THE PRESIDENT: "The Hon'ble Member must not exceed the limit for explanation."

The amendment was put and negatived.

The Hon'ble SIR VITHALDAS THACKERSEY: "Mr. President, I beg to move the amendment which stands in my name, that after the word 'finishing' the word 'sizing' be added; but I think, Sir, that with your permission I may amend that the word 'sizing' should be put before the word 'calendering'. I may explain shortly the reason why I put in this word 'sizing'. It often happens in some of the mills that when a set is on, they work on the sizing, when the mill stops, by a small machine."

The Hon'ble Mr. CLARK: "Sir, Government will be glad to accept the amendment."

THE PRESIDENT: "There is an alteration in the form in which Sir Vithaldas Thackersey's amendment should have been put to the Council. It should be as follows:—that in clause 21, sub-clause (2) (b), of the Bill as amended by the Select Committee, before the word 'calendering' the word 'sizing' be added."

The amendment was put and agreed to.

The Hon'ble Mr. BIRKMYRE: "Sir, I rise to move the amendments which stand in my name, and trust I will not be considered out of order if I discuss all these amendments *en bloc* and especially after the discussion that has already taken place this morning; and notwithstanding what we have heard from the Hon'ble Sir Vithaldas Thackersey and the Hon'ble Mr. Clark in regard to the Government's view regarding section 5, I feel that I ought still to move my amendments.

"I find, however, in the replies of Local Governments which have been circulated to Hon'ble Members, so much misconception as to my proposals and in some cases, I am sorry to say, so much suspicion as to their motives that I take this opportunity of making my own position clear, and of stating to the Council the objects which I had in view in bringing forward these amendments.

" I beg, therefore, the indulgence of the Council for a few minutes while I endeavour to explain, to the best of my ability, a technical and, as it has appeared to many, a somewhat complicated subject.

" My object in bringing forward these proposals were two.

" First, it seemed to me that the object of Government, namely, the limitation of adult labour to 12 hours daily, might be secured effectively without the direct restriction which has excited almost universal opposition among the industries concerned. So much has already been said and written on this subject, that it is unnecessary for me to enlarge upon the question at present; but in view of the Hon'ble Mr. Clark's remarks explaining my amendments on the 1st March, I hoped that Government would be prepared to reconsider the matter and delete these objectionable clauses, if the object aimed at, namely, that no person should be employed for a longer period than 12 hours in any one day, could be attained effectively by other means.

" Sir, I maintain that in non-shift factories the provision that work should not start before 6 A.M. and stop not later than 7 P.M. would, when considered in connection with the half hour stoppage obligatory after each 6 hours work, be fully effective in limiting the hours of working to 12. And as in the opinions received no contrary views have been expressed, we may, I think, be sure that this result will actually be obtained. This proposition has the additional advantage [and it is an advantage I claim over Sir V. Thackersey's amendment] that it shortens by half an hour the time between which the 12-hour day must be put in, and, therefore, renders it easier for the Inspector to see that the 12-hour day is not exceeded, besides being, I hope, some advantage to the operatives themselves in ensuring them a half hour later start.

" As, therefore, my amendments, in factories which work with only one set of adults, make the Bill absolutely effective in securing a 12-hour day for all operatives, and besides have various collateral advantages, I shall say no more about such factories.

" Now, my proposals are attacked by several Local Governments, because they are said to open the door to abuses in connection with what is called, by some, *nominal system of shifts*. In this connection I would quote from the Factory Commission Report, paragraph 11, page 9, and I need only quote a few words as follows:—

' We ascertained by *careful enquiry* that these shifts, though complicated at first sight, are understood by the operators and are *actually carried out*.'

" The Commission Report has been freely quoted, I notice, in the replies received from some Local Governments, and if those Local Governments lay so much stress on certain passages in this report, why not accept this very emphatic statement which is also contained therein?

" This objection to the shift system appears to me to be due to a misunderstanding which I hope the Council will allow me to attempt to clear away. The Bill as presented by the Select Committee permits working in shifts for a period of 13½ hours with women and children or for any period without them. The only difference made by my proposal is that the period of working in shifts with women and children is reduced to 12 hours, and who can say that this is not an improvement, as it allows an extra half hour at home?

" In view of the opinions which have been expressed concerning the shift system, I think it is appropriate to mention here some of the advantages which accrue to the operators working under this system.

" In the first place, persons employed in shifts are not worked for such long hours or so continuously as those employed in a non-shift factory.

" In a 13-hour factory day, shifts can probably be arranged to give each person 10 hours.

" Again, we have in Bengal two distinct classes of labour. There is the imported labour which generally resides in the busties adjoining the mills and who prefer to come in the morning, have a long interval in the middle of the day to cook their food, etc., and complete their day's work in the afternoon. There

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is another class of labour which lives some distance from the mill, and by the shift system this class of labour arranges to come when the mill starts in the morning and leaves for good early in the afternoon. Or it comes later in the morning, say 9 o'clock, and works up to stopping time, with of course only short intervals during the actual time of work. It would be a distinct hardship for this class of labour if they were compelled to come at the starting time and remain until closing time.

"Incidentally, I would like to ask here, how the advocates of the single shift of 12 hours a day have arranged to work women for this period, when the Bill only permits of an 11-hour day for them?"

"It is true that I also proposed the elimination of section 28 of the Bill, and it is said that this will leave no restriction of the hours that can be worked by any individual in a shift; but as no shift providing for hours of more than 12 has ever been framed and, if it were framed, would not be sanctioned by the inspector, the objection does not appear to me to carry practical weight, and I cannot see any reason why the executive power of an inspector in this connection would not be as effective as the statutory limitation which is so strongly objected to.

"I now come to the second purpose of my amendments. I wish to fix the hours of children in jute mills so as to fit in with the working hours of the mills.

"The Bengal jute mills, as Members of this Council are aware, invariably work on the system of shifts. The time during which mills work is not therefore limited to 12 hours daily. In practice the time during which the engine can run is governed by the hours of women and children. Now, in the Bill as published, the hours between which women and children may work are 5-30 A.M. to 7 P.M. My proposal is, that those hours should be changed to 6 A.M. to 7 P.M., giving a working day of 13 hours, and the hours for children, which were for textile factories only, 6 hours, should be increased to 6½ hours, in order to fit in with the proposed 13-hours factory day.

"Sir, in making these proposals, I have been accused of throwing overboard all considerations of humanity and wishing to exploit children for the benefit of jute mills in Bengal. I make an emphatic denial of these accusations. My interests in this country are, I hope, not of a transitory nature, and I am well aware that any attempt to exploit labour for the benefit of capital will only end in disaster, and though the opinion of the Factory Commission as to the physical condition of children in textile factories so frequently quoted appears to be against me, I will endeavour to show that there is something to be said on the other side.

"Now I will also make a quotation from the Factory Commission Report; in paragraph 42 they write as follows:—

'Owing to the prevalence of abuses, which have already been fully discussed—the working of half time children for full time, the employment of children under age, the neglect to give regular intervals, and so on—it is difficult to form a clear idea as to what the effect of the present legal working hours, if faithfully adhered to, would have been on the general health and physique of the children.'

"This is a significant statement and no doubt the acknowledgment of those abuses has done much to damage the reputation of jute mills in Bengal. However, it would appear to me that, before condemning, it would only be fair to consider how those abuses arose. In my opinion they arose entirely from the want of proper machinery whereby the provisions of the existing Act could be rigidly enforced.

"To begin with, inspection was altogether inadequate. At the time the Factory Commission reported, Bengal shared one whole time inspector with the United Provinces and Eastern Bengal and Assam. Now there are two whole time inspectors for Bengal and Eastern Bengal and Assam only, and I anticipate that this staff will be even further increased.

"Again, under the old Act, certificates for children were not compulsory; it can easily be seen how easily this led to abuses, while under the new Bill a

child cannot work unless he has a certificate of age and fitness from a special certifying surgeon who, I am glad to say, has already been appointed by the Bengal Government, and who has already certified the ages of, I understand, something in the neighbourhood of 14,000 children during the last year.

"In addition to the want of sufficient inspection and the want of proper certificates of age and fitness, there was under the old Act no means provided of identifying children. Anyone who has been through a jute mill employing hundreds of children will at once recognize the helplessness of any sufficient check even by the most virtuous managers under these circumstances.

"Under the new Act I very strongly supported in Select Committee the proposal, which was eventually carried and not without a certain amount of opposition, that a child must carry while at work either his certificate or a token giving reference thereto, and this provision will, I hope, make it possible for managers to control the hours of children's work in a very much closer manner than has been possible under the old Act. For those reasons I say that the abuses which undoubtedly existed when the Commission sat will not recur, and that only the hours allowed by law will be worked. It is, however, necessary that in order to prevent even this machinery from failing to achieve the object aimed at, that those hours should be fixed with proper care and deliberation and with due regard to the convenience of those responsible for the administration of factories. Can it be said that this is the case in the Bill as published?"

"The Factory Commission in that very paragraph No. 63 which is several times quoted in the correspondence before you, write as follows:—

'In suggesting this period (of 6 hours for children) we have borne in mind the absolute necessity of proposing a limit of time which will fit in with the other limits which we propose as regards the hours of work for young persons and women and with our reasonable anticipation as to the probable hours of employment of adult males. This point, the vital importance of which was strongly emphasized by the Factory Commission of 1891, has not hitherto always been kept in view; but in all cases where it has been lost sight of, the limitations which ignored it have, as a matter of actual practice, been disregarded.'

That is to say, the Factory Commission fixed the hours of children at 6, chiefly in order to fit in with the 12-hour day and point out the vital importance of fixing them on this principle. At the same time and on the same principle they fixed the hours of women at 12 in order to fit in with the 12-hour working day. In the Bill before us, indeed, this position has been abandoned and the hours of women limited to 11, which I think is quite long enough. Incidentally I might say that they do not fit in with the other workers in non-shift factories, and the decision to keep women's hours at 11 necessitates and recognizes a system of shifts. But keeping before me the same important principle as the Factory Commission, I ask for an extension of children's hours to 6½ to fit in with the 13 hours during which mills will work under my amendments. If the amendments are not accepted, the hours of children will be 6 and the hours of the mill 13½. I have explained the abuses which arose under the old Act and the precautions which have been taken to prevent a recurrence of these abuses; but I think it a matter of the first importance that no complications should be allowed which will make the carrying out of these safeguards in any way difficult.

"Under my amendments all difficulties in working would disappear. We would have two distinct shifts working at different hours, easily controlled and checked by means of the identification certificates; but under the Bill as it stands how are the children's shifts to be arranged? It is possible no doubt to frame and record a complicated system of over-lapping shifts which would entail 6 hours work for each individual child, but it will be extremely difficult to frame such an arrangement and still more difficult to enforce it.

"The retention of the 6-hour rule will almost certainly mean that it will be necessary to have 3 sets of children working 4½ hours each. It can be arranged in that case that the work will be more continuous than it is at present with only 2 sets, and possibly there will be no loss in the working

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of mills; but there is one great objection to this arrangement of work, and that is, the great danger which will be incurred of a child working in two factories in the same day. Even now, cases have been known where a child has worked half the day in one factory and half the day (sometimes under a different name) in another factory. Such cases are rare, but when the day is divided into three, there will certainly be very great danger of this practice becoming general, and it seems to me that it is almost impossible to check it by any arrangement of inspection. If this is so, and I honestly think it is, the result will be that many children will not be working, as they would under my proposals, for $6\frac{1}{2}$ hours, with of course suitable intervals of rest during the period of work, in one factory, but 9 hours in two factories. I hope this consideration will shed a somewhat different light on the apparently reactionary proposal to increase the hours of children by half an hour.

"There is one other consideration which I should notice, and that is this. Bengal is the only Province in which the shift system is in force and therefore the only Province where the mill will run for 13 hours, and where a $6\frac{1}{2}$ hour limit for children is necessary. In other Provinces under the non-shift system the mill will work for 12 hours and the children will work half that time, so my amendments will make no difference in practice except in Bengal.

"Now the Government of Bengal with full knowledge of the circumstances of the case approve of the longer hours for children. The objections of other Governments are based on no practical considerations whatever. They do not say how the increase from 6 to $6\frac{1}{2}$ will affect the children in the mills under their jurisdiction, if indeed it will affect them at all. Their judgment in fact is that of the arm-chair politician, and it is hard indeed for a practical man of business to speak of it with respect.

"There is only one more point to which I wish to refer. The Government of Bengal have referred to a strong minority which is opposed to my amendments. I am perfectly aware of this minority and know that they are in favour of the one-shift system. I believe I am right in saying this view is held by this minority almost entirely with the idea that it would be a more economical system of working our mills. They are most undoubtedly entitled to their opinion, and knowing the high ability of some of the advocates of the system I am not prepared to say now that they may not be right. What I do hold, however, is that this is not the question before this Council. Under the Act as I propose, to amend it there is no reason whatever why the advocates of the single shift system should not so work. It is perfectly certain that if they find it both the most economical system, and the most convenient from the point of view of the labour force, the present majority will follow them, and the alteration in the hours which I propose will have no more effect in Bengal than as I have shown they will have in other provinces at present working on the single shift system.

"If, on the other hand, it were found that our labour, which has been so long accustomed to the recognized shift system at present in force in Bengal, does not care to adapt itself to the single shift system,—and I honestly believe it will not,—let us not hamper ourselves with an Act which will be in any way complicated or difficult to carry out either in the interests of mill-owners or the operatives themselves.

"Sir, I thank the Hon'ble Members for the attention with which they have listened to the explanation which has been my share of this somewhat intricate controversy.

"I await with interest the reply of the Hon'ble Member in charge of the Bill, and I hope that he will not be led away by any doctrinaire opinions, but treat the proposals from a practical point of view, and in that case I am confident they will secure his approval."

The Hon'ble Mr. CLARK: "Sir, the Hon'ble Mr. Birkmyre has informed us that his amendments are intended to stand or fall together, and he has accordingly explained them as a whole to Council. I think this plan is greatly to the convenience of Council, and I propose in discussing them, with your

permission, to travel beyond the amendment which is now before us and to follow his example in examining his proposals as a whole. These amendments, as Hon'ble Members are aware, were not laid before the Select Committee appointed to consider the Bill but were put down at a somewhat late date just before the last sitting of Council at the beginning of this month. Coming as they did from the Hon'ble Mr. Birkmyre, the accredited representative of the jute industry on this Council, special importance attached to these proposals, and it seemed desirable that the Government of India should be in a position to obtain outside opinions upon them. I accordingly took the doubtless unusual step of making a brief statement on the subject in Council. I said that Government wished to call special attention to these amendments with a view to ample opportunity being given for their consideration and criticism not only among Hon'ble Members here but in the country at large; and I also said that they would lose no time in obtaining the views of Local Governments, and that the whole matter would be most carefully examined before the final stage of the Bill was reached. This procedure has been somewhat severely criticised in some quarters, and as to that there is just one thing to be said. I think we should have fallen short of our duty to an important industry if we had taken our stand on the late period at which these amendments were brought forward and had taken no notice of them until they were moved in Council to-day. Such a course would have been easy enough. To have done so would virtually have amounted to barring them out of discussion altogether, for there would have been no opportunity of giving them publicity, or of obtaining general opinions upon them. Government is often accused of aloofness, of unwillingness to listen to representations from the outside; but it is a new thing for it to be accused of lending too ready an ear to proposals from the representative of a great industry or of taking too much trouble to elicit expressions of opinion. At any rate, I think the course adopted has been amply justified by the result. We have had the advantage not only of obtaining the views of Local Governments, which of course could have been done through the ordinary channels, but also of seeing criticisms in the Press on either side of the question and of hearing the views of private individuals, including those of a section of the jute trade, which, in this matter, does not see eye to eye with the Hon'ble Member.

"But to return to the amendments themselves. The opinions of the Local Governments are, on the whole, unfavourable to the Hon'ble Mr. Birkmyre's proposals. The Punjab and Burma, it is true, are prepared to accept them. The Bengal Government, on the other hand, while not objecting to the proposed increase in the hours of children, does not consider that the later half-hour start is an adequate *quid pro quo* for giving up the specific restriction of hours in clause 28; Eastern Bengal and Assam take a similar view; and the Governments of Bombay, Madras, the United Provinces, and the Central Provinces object to the proposals, both as concerns adults and children.

"The Hon'ble Mr. Birkmyre, in the vigorous speech to which we have just listened, complains that the letters from Local Governments show in some cases misconceptions as to the nature and effect of his proposals. I think it must be admitted that, especially in relation to factories working in shifts, there has been some confusion as to the provisions of the Bill as it now stands and the alterations in these provisions which would be made by the Hon'ble Member's amendments; but two points stand out clearly from the correspondence—firstly, that most Local Governments—and it must be remembered that they will have the working of the Bill when it has passed into law—would not willingly dispense with the specific limitation of hours contained in clause 28, and secondly that the majority of them would strongly oppose any increase in the hours of labour of children.

"Now, it is most important to understand exactly what the effect of these amendments would be. The Hon'ble Member's objects, if I have understood him correctly, is, I think, twofold—firstly, to secure the elimination of clauses 28 and 31 containing the specific restriction of hours of operatives in textile factories and of the running hours of the machinery, to which, generally speaking, the whole textile industry, both jute and cotton, object; and, secondly,

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in relation to the jute industry in especial, to make certain adjustments in regard to the effect of the Bill on the existing system of working by shifts—these adjustments including an increase in the hours proposed for children in the Bill, and at the same time, a shortening of what may be called the factory day, *i.e.*, the period within which women and children are allowed to work. Now, as regards the first of these objects, *viz.*, the elimination of clauses 28 and 31, the Hon'ble Mr. Birkmyre claims that his proposals will produce exactly the same result as these clauses, *viz.*, that the working hours of adults will be limited strictly to 12. One is naturally tempted to ask why, if this is the case, it should be deemed desirable to eliminate the clauses at all. There is no doubt some apprehension in the textile industry that if clause 28 stands and hours under it are now fixed at 12, they might at some later time be further abbreviated to 11 or 10 by a very simple amendment of the Bill. I think the Hon'ble Mr. Dalabhoj in especial laid stress on that point to-day. Here, again, it is legitimate to point out that, assuming for the moment that the Hon'ble Member's proposals would secure a 12-hour day, it would be just as easy in futuro, if they were adopted, to secure an 11 or 10 hour day by altering the hours of starting work or increasing the statutory intervals of rest. It is not, in fact, very easy to see why, if restriction to 12 hours' working is generally accepted, there should be such a general objection to the specific provision now in the Bill: but that that feeling does exist is undeniable, and perhaps it is not necessary to insist too strongly on the illogicality involved in this part of the amendments being put forward at all. The Hon'ble Mr. Birkmyre proposes to secure his 12-hour day by altering the hour at which a textile factory is allowed to start work from 5-30 to 6 A.M., the hour of stopping work to remain, as in the Bill, at 7 P.M., and he proposes that a corresponding alteration should be made in the hours of women and children. The effect of this alteration would be to reduce the period within which the factory may work from 13½ hours to 13 hours, and the Hon'ble Mr. Birkmyre claims that in conjunction with the provision in clause 21 of the Bill, prescribing a compulsory half-hour's stoppage of all work after every 6 hours' working, his proposal would ensure that there would be a working day of 12 hours only. It may be admitted at once that, as regards factories working on the non-shift system, as do the cotton-mills at Bombay, this proposal is in one respect an improvement on the provisions contained in the Bill, since work would begin half an hour later, which in regard to children and women especially would be a distinct advantage. On the other hand, in making the 12-hour day depend on the strict observance of the half-hour intervals required under clause 21, it, in some degree, increases the responsibility of the inspector. The matter, however, is more complicated when we come to consider the question of factories working in several shifts, as in the jute industry in Bengal. Under the Bill as it stands, so far as adult male labour is concerned, such factories are entitled, if they like, to work the whole round of the clock subject to the inspector approving the system of shifts and subject to the provision of clause 28 that no man may work for more than 12 hours. But in practice, as the Hon'ble Member has explained, the labour of women and children is essential to the working of such factories, and their running time would therefore be limited in practice to the period within which women and children are permitted to work, *i.e.*, the 13½ hours, between 5-30 A.M. and 7 P.M. The question therefore is whether, if the specific restriction of clause 28 is removed, the necessary sanction of the inspector to the system of shifts will be sufficient to secure that no individual will be worked for more than 12 hours out of the 13½ or out of the 18 to which the Hon'ble Mr. Birkmyre has proposed to restrict the factory day by his suggestion of starting work half an hour later. Now, we cannot, I think, get away from the fact that, even under the Bill as it stands, successful working will depend to a very large extent on the efficiency of the inspecting staff. That would be the case either under the Bill as it stands or if the Hon'ble Mr. Birkmyre's amendments were accepted. But under the Bill as it stands you have the sanction of a direct legal prescription for the 12-hour day, while, if the omission of clause 28 were carried, the limitation would rest solely with the inspector. I think, Sir, that in so vital a matter it would be a serious step to dispense with the statutory prescription. To do so might

tend to weaken the hands of inspectors and make it more difficult to ensure that the method of working by shifts was not abused.

“There remains the other object which the Hon'ble Mr. Birkmyre has in view in relation to the existing method of working by shifts in jute-mills. The limits of working which the necessity of employing women and children would in practice impose on jute-factories under the Bill as it now stands will be 13½ hours. On the other hand, under clause 32, children are only allowed to work in textile factories for 6 hours a day. Consequently, when a double shift of children has been employed, it will still be necessary to employ a third shift to fill up the remaining hour and a half. The Hon'ble Mr. Birkmyre proposes on the one hand to reduce the factory day to 13 hours by starting work half an hour later, and on the other hand to increase the hours of children to 6½, so as to enable work for the whole day to be accomplished with two shifts. The whole question here, Sir, is whether the starting work half an hour later can be considered an adequate compensation for the increase in the hours of children. It is a question on which it is exceedingly difficult for any one who has not personal experience of existing conditions in jute-mills to pronounce an opinion. I am quite sure that the Hon'ble Mr. Birkmyre would not have put forward a proposal of this kind if he thought that it would lead to injury and deterioration in the health of the children who are employed. If any one ever had any doubts on this point, I think he would agree that in what the Hon'ble Member said just now on this part of the subject he completely vindicated himself from any such suspicion. It is also a strong point in his favour that the Bengal Government, the Government of the province concerned, see no objection to the increase. But, on the other hand, we have the strong opinion laid down by the Factory Commission that 6 hours should be the absolute limit of children's work. Perhaps I may read a short passage from their Report :

‘In view of the results of our investigations as to the physical condition of half-time children employed in factories, we are strongly of opinion that it is necessary to reduce the severe strain under which they at present work. We have explained our reasons for rejecting the suggestion to increase the age limit of this class, and the only practicable alternative which will secure our object is to reduce the number of hours for which they are now permitted to work. It is frequently stated that the children in a textile factory are not worked hard; that they enjoy numerous intervals of rest; that the work required of them is light and intermittent in character; and that they are not subjected to a strain comparable with that borne by the other workers. We do not entirely agree with these views. In all textile factories it is essential that the doffing should be done as quickly as possible; and the children undoubtedly work hard at each doff. Further, it is naturally the aim of the factory manager to arrange matters so that the children are employed as continuously as possible on doffing work; and, though they are usually alert enough to circumvent these intentions to some extent, yet the work is undoubtedly much more constant than has been supposed. In jute-mills the doffing work is very hard while it lasts; all the apparatus dealt with is heavier than in cotton-spinning; and the children are urged to the utmost speed, as the spindles fill very quickly, and doffing is much more continuous than in a cotton-mill. The doffers in the jute-mills work with wonderful rapidity. In cotton-mills, though the work is neither so hard nor so continuous as in jute-factories, the children work in rooms full of noisy machinery, sometimes badly ventilated, and frequently excessively hot. In our opinion there can be no question that the children employed in textile factories are subjected to a severe strain during their working hours; and we were specially struck with the tired and listless look of the children in factories which we visited at the close of hot working days.’

“These are weighty words, and I hardly think that the earlier passage of the report quoted by the Hon'ble Member, in which the Commission refer to the difficulty, owing to the prevalence of abuses, of assessing the effect on children of the legal hours if they had been faithfully adhered to,—I hardly think that this paragraph can be considered as in any large degree detracting from their cogency. On the other hand, there is the undoubted administrative objection to the Bill as it now stands that the hours of children will not fit in with the hours for which adult working in jute-mills is permitted. The Factory Commission, as the Hon'ble Mr. Birkmyre has said, insisted on the importance of this point. It would not be fair to the jute industry or to the Hon'ble Mr. Birkmyre's proposals to deny that this difficulty exists and is a perfectly genuine one; but I think Hon'ble Members will agree that in view

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of what the Factory Commission wrote as to children's labour in India, the Government would take a serious responsibility if they agreed to an increase on the 6 hours' limit now prescribed in the Bill. It should also be said that a section of the jute industry itself favours the provisions in the Bill rather than those put forward by the Hon'ble Member.

"There are therefore two serious objections to the Hon'ble Mr. Birkmyre's proposals. First, as regards the hours of adult labour in textile factories, the proposed omission of clauses 28 and 31 makes the restriction of hours of labour depend, as regards non-shift factories, on the strict observance of other provisions in the Bill; and as regards multiple-shift factories, the omission of clause 28 makes the restriction depend entirely on the inspector granting or withholding his approval to the system under which the mill is to work. In other words, the responsibilities of the inspector will be increased and he will not have a definite statutory prescription behind him. Secondly, there is the proposed increase in the hours of children, the objections to which I have just stated.

"Sir, it is not for want of consideration that Government have come to the conclusion that they must reject these proposals. They have even, as I stated in an earlier part of my speech, gone outside the ordinary procedure in order that their full examination should not be prejudiced by the late hour at which they were brought forward. They are aware of the strong feeling existing in the textile industry as a whole in regard to the specific restrictions now to be placed on the hours of working of operatives in textile factories, and they recognise that the Hon'ble Mr. Birkmyre has put forward the proposals with a genuine desire to arrive at a settlement. But the objections which I have laid before the Council seem to Government too strong to warrant their acceptance, and they regret therefore that they must oppose the amendments."

The Hon'ble MR. BIRKMYRE: "Sir, I have to thank the Hon'ble Member. I beg to withdraw my amendments."*

THE PRESIDENT: "The amendments are withdrawn."

* (8) That in clause 23, sub-clause (b), of the Bill as amended by the Select Committee, for the words "half-past five" the word "six" be substituted.

(9) That in clause 24, sub-clause (a), of the Bill as amended by the Select Committee, for the words "half-past five" the word "six" be substituted.

(11) That clause 25 of the Bill as amended by the Select Committee be omitted.

(14) That in clause 29, sub-clause (1), of the Bill as amended by the Select Committee, for the words "half-past five" the word "six" be substituted.

(15) That after clause 29, sub-clause (1), of the Bill as amended by the Select Committee, the following sub-clause be inserted, namely:—

"(2) Nothing in sub-section (1) shall apply to any person employed on—

- (a) the work of calendering, finishing, sewing or tailoring, or
- (b) the work of cloth-printing, bleaching or dyeing, or
- (c) any work specified in Part A of Schedule I;

"(3) Where it is proved to the satisfaction of the Local Government that any work not specified in Part A of Schedule I is of an urgent nature, or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any person employed on such work from the operation of sub-section (1) on such conditions, if any, as it may impose; and"

that sub-clause (2) be renumbered (4).

(16) That clause 30 of the Bill as amended by the Select Committee be omitted.

(18) That clause 31 of the Bill as amended by the Select Committee be omitted.

(19) That in clause 32 of the Bill as amended by the Select Committee, for the word "six" the words "six and a half" be substituted.

(23) That in clause 51, sub-clause (2), of the Bill as amended by the Select Committee, for all words after the word "namely" the following be substituted:—

- "five-thirty o'clock in the morning and six-thirty o'clock in the evening;
- six-thirty o'clock in the morning and seven-thirty o'clock in the evening; and
- seven o'clock in the morning and eight o'clock in the evening."

(24) That in clause 52 of the Bill as amended by the Select Committee, the word and figures "section 23" be omitted.

(26) That in Schedule I of the Bill as amended by the Select Committee, for the figures "30", each time they occur, the figures "28" be substituted.

(27) That for references to clauses 29 and 32 and the following clauses, wherever they occur, references to the corresponding clauses as renumbered be substituted.

The Hon'ble MR. GOKHALE : " Sir, I beg to move that to clause 23 of the Bill as amended by the Select Committee, the following sub-clauses be added :—

' (1) Every factory, in which more than twenty children between the ages of nine and twelve are employed, shall maintain an elementary school in proper condition for their benefit, and attendance at such school for not less than three hours every working day shall be compulsory in the case of each child so employed.

' (2) No fees shall be charged for the instruction given in such school.'

" Sir, I urge this amendment on the broad grounds of justice and humanity. The plea of justice is based on three considerations. In the first place, the very fact of the employment of these children in these factories disables them from availing themselves of the ordinary facilities that exist for receiving instruction at school. They have to be in the factories for certain stated hours and therefore they cannot suit themselves to the hours during which they can receive instruction in ordinary schools. Secondly, under what is known as the split shift system, their presence in the factories is not confined to the actual hours during which they have to work ; but they are expected to be about the factories, on the premises or somewhere near by, because their work is divided into two parts and they have to do part of the work in the morning and the other part in the afternoon. Therefore, the total time for which they must be present in or near the factories is really much longer than the actual period for which they have to work. And thirdly, the parents of most of these children are employed in the factories, and being so employed they are prevented from exercising that supervision over their children which ordinarily they might be expected to exercise. Therefore, Sir, on these three grounds of justice, I urge that the factory-owners should be made responsible for the education of these children. This is only fair, because the factory-owners make money out of the children, make money also out of the children's parents, and further work in their employ makes it impossible for the children's parents to exercise that supervision over the education and other interests of the children, which they might otherwise have exercised.

"Then, Sir, I urge my proposal on the ground of humanity. The sole justification for a measure like this is its humanity, and humane considerations must apply most to that section of the labouring population which is least able to take care of itself. Now, children are obviously the least able to take care of themselves, and therefore, if humane considerations are to apply anywhere and the State is to extend its protection on humane grounds to any section of the labour-population, that ought to be in the case of children. If the children are to be left to themselves, if after six or seven hours' work has been exacted from them they are to be turned into the street, there to get into the ways of mischief,—without anybody to look after them, their parents being engaged in the factories,—then I say the humanity on which the State bases itself in introducing this legislation is not extended to the children.

" I think, therefore, Sir, that some provision ought to be made for the education of the children employed in factories, after they have performed their work. The half-timers are between the ages of 9 and 14 ; I am quite willing that the provision to be made should be for children between the ages of 9 and 12 only. Of course, it is true, as the last Factory Commission has pointed out, that there is no compulsory education for anybody in this country. It is also true that the Commission has expressed itself against compulsory provision for the education of factory children ; but even so, the Commission has recommended very strongly that something should be done to ensure the education of these children and that local bodies and the Government and the factory-owners should all concert measures together for the purpose. The earlier Factory Commission, however—that of 1890—is emphatic in its recommendation that provision ought to be made for the education of the factory children, and I prefer its recommendation to that of the later Factory Commission. This is

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what the earlier Factory Commission, which first provided that children should be employed as half-timers only, recommended :

'If our suggestion that children should be employed as half-timers is adopted, it will be found most important to provide some means of instruction during two or three of the spare hours that the children are off work. It is not for us to discuss here the advantages of elementary education, and general control and supervision of the rising generation of operatives. These are too obvious to require any advocacy from us. What we would say is that Local Governments and municipalities should meet mill-owners half-way and, as is done in regard to children under other circumstances, contribute half the cost of teaching factory children. Supposing, for instance, that a mill, employing 100 children, spends 10 rupees a month for two teachers; the Municipality or Government should double this subscription and provide two or more teachers. Looking at it from a pecuniary point of view, the expenditure is so trifling that we cannot doubt that schools would be started without delay in connection with all mills employing a large number of children. It was not to be expected that schools started under the present circumstances could be a success. For it is impossible that a tired and jaded child (there was no class of half-timers before 1890) can work his brain to any useful purpose after his body has been thoroughly worn out with physical exertion.'

"Then, Sir, our friend, the Hon'ble Mr. Fremantle, in a very interesting report which he submitted sometime ago to the Government of the United Provinces on the condition of labour in Upper India, takes up this question and makes a very strong recommendation. I think he puts the case so well that I cannot do better than read to the Council what he says :

'The first step,' says Mr. Fremantle, 'is to compel observance of the law as to the employment of children. When the children are really employed for only half the day, their parents will, as a rule, be only too pleased that they should be under instruction for part of the rest of the time. The schools might be maintained by the mill managers on their premises and partly supported by grants-in-aid. With proper inspection, there should be no risk of the instruction given being insufficient. Later, if the school became popular, it might be possible to provide by law that no boy or girl under 14 should be employed in a mill unless he or she were under instruction. If this were the law, it would not be the first attempt at compulsory education in India. The Gaekwar has introduced it in parts of the Baroda State, (so it is not only I who refer to the analogy of what the Gaekwar has done; sometimes officials also do the same thing;) and the East Indian Railway Company in their fine estate of Giridih enforce attendance at school with excellent results. In Ceylon' (here, again, we have an official mentioning the example of Ceylon) 'wherever there are Government schools, education is compulsory, and the Commission on Elementary Education which sat recently recommended that planters should be held responsible for the instruction of the children of their Tamil coolies. Managers of mills and factories in Upper India have never yet had their attention specially directed to this matter, and it is quite time that a beginning were made.'

"What Mr. Fremantle says about managers in Upper India applies equally to managers all over the country. Sir, it is true that on the Bombay side some of the mills have made attempts to provide educational facilities for the children employed in those mills; but the last Commission has come to the conclusion that these facilities were not efficiently provided, and very often they were only a thin disguise for keeping the children on the premises in order that they might be worked more than half time. One essential condition, therefore, in connection with any educational facilities offered is that there must be efficient supervision and that supervision must be provided by the Education Department or whatever body it is that inspects and supervises local schools. But I think, Sir, the first thing to do in this matter is to throw a definite responsibility on factory-owners. It is not an unfair thing to expect, as I have pointed out, that the factory-owners, who make money out of the children, should hold themselves responsible for the education of those children. Of course, it is only fair that the Government and the local bodies should come to the assistance of the factory-owners; the cost may be divided among the three bodies—the factory-owners, the local body concerned, and the Government—in such proportions as may appear to be most equitable; but somebody must first be made responsible for the education of these children, and I think it should be the factory-owners. Even though there is no general compulsory law in India, it is necessary that there should be special provision for factory children for the simple reason that these children are disabled from availing themselves of the ordinary facilities that exist. I therefore trust that the amendment which I have moved will be accepted by this Council."

The Hon'ble MR. DADABHOJ : " Sir, I am in entire agreement with my friend the Hon'ble Mr. Gokhale as regards the spread of elementary primary education. I have supported him in this matter on two occasions previously in this Council; but I feel constrained to oppose him to-day. I endorse the opinion—and my views are already before the Council—that elementary education should be free and, under certain circumstances and under adequate precautions, should be compulsory as well. I gave him only the other day my cordial support. Therefore, whatever I say to-day should not be misunderstood. I do not hold any brief for the millowners of Bombay or of any other part of the country; but I do think that this proposal of my friend, the Hon'ble Mr. Gokhale, though well-conceived and emanating from a genuine desire on his part for the instruction of the youth of this country, is one which is not worthy of the Council's serious consideration. The matter was very carefully considered by the Factory Commission, and they, in paragraph 89 of their Report, which I shall take the liberty of reading, distinctly said :

' We do not consider that factory-owners should be compelled to provide elementary education for the children employed by them. We can see no reason why this particular obligation should be placed upon employers of factory labour only, and we know of no analogous provision in this country which could be cited in support of the proposal.'

" These words have my entire concurrence. I do not see why one particular class of manufacturers should be burdened with the additional responsibility of looking after the education of the youth of the country, which, to my mind, is primarily the duty of the State. It is impossible for these people to adequately look after the education of the boys who work in the mills.

" My friend, the Hon'ble Mr. Gokhale, remarked that humanitarian motives suggest that they should do so. I fail to understand this argument. If the plea of humanitarian motives at all holds good, I think it will hold good in every other department of business, in every other department of trade, in every other department of commercial or industrial activity; and I do not see why it applies with any greater force to the manufacturing industry. But what I fear is that, if this provision is adopted, it will defeat the very object of the Factory Bill, which our Hon'ble friend Mr. Clark is so anxious to secure. You will find that in some mills the presence of these boys will be taken advantage of, and they will be made to work longer than six hours, which is the statutory limit now provided in the Bill. Then again, the factory inspectors reside at long distances, and the staff of inspectors is also inadequate. They will not be able to control them. If you accept an amendment of this character, you will be placing a great deal of temptation in the way of the less scrupulous of these factory agents. If on no other grounds, I submit, on this ground alone, the amendment should not be accepted.

" I am aware of other grounds also. It is not fair to the factory-owners that this matter should now be taken in hand at this stage. This Factory Bill has been before the public for the last eighteen months, and my friend, the Hon'ble Mr. Gokhale, had ample opportunity of bringing this matter before the Council before now. He could have brought this matter to the notice of the Hon'ble Member for Commerce and Industry. I know that he did refer to this matter in Select Committee, but it was there only casually considered and dismissed. I think a provision like this, involving an important responsibility sought to be fixed on factory-owners, ought not to be accepted lightly. The large industrial centres have a right to express their opinion on the subject. That right they have been deprived of, and I do not think it would be prudent for Government to accept this amendment without consulting the mill-owners of Bombay, Cawnpore and other important industrial centres. I therefore submit that the amendment should not be accepted at this stage. I am also of opinion that this is a very inopportune time for introducing such an amendment. My Hon'ble friend Mr. Gokhale has already placed before the Council an important Bill for the spread of elementary instruction, and he ought at any

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rate to have waited till the decision of the public had been obtained on it. Moreover, this amendment, if carried, would in my opinion also conflict with one section which he has provided in that Bill. If my memory does not fail me, it is provided in that Bill that no employer of labour shall entertain the services of children of school-going age under the age of 10 years, while in this Bill, by this amendment, he proposes to fix the limit of age between 9 and 12. In my opinion this amendment is not judicious, and I do not think this Council would be acting rightly in fastening a responsibility on the mill industry without giving them a chance of being heard on the subject. I therefore oppose this amendment."

The Hon'ble MR. MAZHARUL HAQUE: "Sir, I have great pleasure in supporting the amendment of my Hon'ble friend. I support it on two grounds. One is that it is a move, however modest it may be, in the direction of that general scheme of universal primary education for which I have so often pleaded in this Council. The acceptance of this amendment will go to a certain extent to pave the way for that object. Secondly, I support it because I consider it only right and just that those people who have grown rich or are in the process of growing rich by the labours of these children should contribute a little to the moral elevation of these poor little mites. This is a responsibility which every consideration of humanity and justice throws upon their shoulders; and I hope that they will not shirk it but will cheerfully accept it. My Hon'ble friend Mr. Dadabhoj has said that it is the duty of the State to educate children. Well, Sir, I am sick of hearing of these duties of the State. What are our duties? Have we got any duties at all? Is everything to be thrown upon the State? Well, I submit that this is a duty which ought to be cheerfully borne by the capitalists."

The Hon'ble MR. MUDHOLKAR: "Sir, as one who is, though in a small way, connected with the employment of these children in factories, I think it my duty to support the amendment moved by the Hon'ble Mr. Gokhale. I realize, Sir, that it is the duty of every educated man in this country to do everything that lies in his power to promote the well-being, both material and moral, of the masses. Unless the masses are improved, the country can make no advance, and its condition cannot improve. The duty of the State also in this matter is very clear. The Government have, according to the view of the people, whether that view be correct or not as to the origin of the agitation, undertaken this legislation for securing the material well-being of the large mass of humanity which is aggregated in these factories. I would put it to them whether it is not equally their duty to help in the education, in the better fitting up for the future struggles of life, of the young persons who are taken there at a tender age when they ought to be in school or be allowed to play about. I think, Sir, those who employ labour should take a larger view of their duties than most of them do. Indians at any rate owe it to themselves to support a proposition of this kind. My Hon'ble friend Mr. Haque has already referred to the duties which lie upon us, to do something for ourselves, and not to expect the State to do everything for us. Here is a matter where people who derive considerable profits from the labours of these boys can well take the initiative. Let them not take too selfish and too personal a view of the relations between them and their employes. Let them realize what they owe to the children whom they bring to these factories, on whose labours it is that they obtain their riches. Therefore, as a small employer of labour, I support the motion most heartily."

The Hon'ble MR. MADGE: "Sir, is not this proposal a sort of resurrection of the corpse of free and compulsory education that was discussed the other day, and sent down the country for opinion enshrouded in the provisions of the Hon'ble Mr. Gokhale's Bill? Perhaps I should say that it is rather a revival of the Hon'ble Babu Bhupendranath Basu's selective principle which did not find a single supporter in this Council; practically it is the selective principle

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applied to factories. Now, if it were merely a question of factory-owners parting with some of their profits for the sake of children, I would warmly support it. But the question is a larger one. For, in discussing the question of the occupation of children everywhere, it has been wisely objected that children should not be kept employed for more than six hours, and really, apart from the special temptation into which particular classes of factories would be led, the mere fact of adding three hours to the six during which children would be kept under compulsion is, I think, a fatal sanitary objection to this proposal. Sir, I am not at all sick of hearing the statement that it is the duty of the State to educate the masses. This principle was laid down fifty or sixty years ago and was never departed from, and I think no one is in such a good position to deal with a problem of this kind as the State itself. Only a good deal of preliminary examination and enquiry are necessary before operations are begun, and, as I said the other day, considering that we have a new Education Department which is certain to give its attention to this subject, I think we may very well await its proceedings before forcing a thing of this sort on this Council."

The Hon'ble MR. CLARK: "Sir, Government, as I am sure the Hon'ble Member will have anticipated, are in full sympathy with the object which he has in view, which I take it is that children should not be precluded by their occupation in factories from receiving a proper elementary education. That being so, the real question is whether what he proposes is the best way to secure that end, and there, I think, doubt must arise. In the first place, if you compel factories to set up schools within their borders, it will not be at all easy to secure efficiency. That was touched upon in the Factory Commission's Report and especially in the evidence of the Chief Inspector of Bombay, Mr. Engel, who, although on general grounds he favoured this suggestion that factories should have schools, laid stress on that particular point that efficiency would be very difficult to secure. A further point is whether it is really fair to the factories to place this burden upon them. At present education is not compulsory in India, yet under this proposal you will be selecting one body of employers and making it compulsory for them to provide education for a part of their employes. The Hon'ble Member has referred to what the East Indian Railway have done in Giridih for the education of the children of their employes. I can speak of that because I was privileged to see something of their work. It is no doubt a very great and commendable achievement, but it does not in the least follow because one company has been far-sighted enough to see the advantages of having a thoroughly educated class to draw upon, that necessarily other companies on whom a system of education is forced will take the same pains to make it good and efficient. Then there is the further difficulty that it may lead to abuse of the law in connection with the limitation of the hours of work for children. I must say that I cannot help agreeing with my Hon'ble friend Mr. Dadabhoi that if an inspector were in the offing, you would be apt to find the factories suddenly empty and the school suddenly filled. There is that danger. I do not think it is one which we can shut our eyes to. Personally, if the time were ripe for it, I would rather see something on the English system by which a child cannot be employed unless he can show a certificate that he has been attending a recognized school. There would be great difficulties about a system like that at present in India, because I understand there are not yet sufficient schools; but certain Provincial Governments—the Governments of the United Provinces and of Bombay—have already moved in the matter and the Government of India will keep it prominently in view of the Local Governments. I think that is really as much as we can do at present. I am afraid I cannot accept the Hon'ble Member's amendment."

The Hon'ble MR. GOKHALE: "Sir, I quite understand the position of the Government and I really did not expect that the Government would do more than urge on the Local Governments the necessity of looking into this matter and doing what they could do secure reasonable facilities for the education of children employed in factories. Sir, the whole question has to be considered from a higher standpoint than that which has been taken by some of the speakers who have criticised my proposals. My Hon'ble friend Mr. Dadabhoi expresses the fear—and I am surprised to see that the Hon'ble

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Mr. Clark concurs in that—that if educational facilities are provided for children employed in the factories, the evil of children being overworked will be facilitated. As a matter of fact, I think, if that is done, the evil will be reduced, because children will be definitely engaged in school, instead of merely loitering about, doing nothing. Of course, I insist on the essential condition that there should be efficient supervision; and if efficient supervision is provided, there would be no risk whatever. It is when there is no school, and the children are asked to remain on the premises or close by the factories, that unscrupulous managers would find it easy to get them to work for longer hours than the law allows, under one pretence or another.

“As regards the Bill, to which Mr. Dadabhoj has made reference, let me point out that the Bill has not yet become law and it will have to encounter such opposition as my Hon'ble friend offered to some of the provisions the other day, before it becomes law; and until it becomes law, it is no use speaking of it as if it was law. Moreover, even if my Bill passes, its application will depend upon the discretion of local bodies, whereas if this amendment is accepted, automatically wherever there is a factory population of children, schools will come into existence. Again, my Bill provides only for children between the ages of 6 and 10, whereas this amendment urges that facilities should be provided for the education of children up to 12. At present children from 9 upwards can be employed in factories; if my Bill comes law, the age limit of employment will be raised by one year, as was proposed this morning by my Hon'ble friend Mr. Quin.

“The Hon'ble Mr. Madge spoke of the corpse of my Bill being resurrected in this amendment. The expression used by him suggests a hope on his part that my Bill is dead. Well, we shall see about that. Sir, my object in bringing forward this amendment was to emphasize the necessity of the Government attending to this matter, and to present to the Council the view which I have submitted. That object has been attained by this discussion, and as the Government are unable to accept my amendment, I do not wish to press it.”

The amendment was withdrawn.

Amendment No. 12* was withdrawn.

The Hon'ble MR. MUDHOLKAR moved that to clause 28 of the Bill as amended by the Select Committee, the following sub-clause be added, namely:—

“(2) Nothing in sub-section (1) shall apply to any textile factory which undertakes to work by daylight hours only, to have no electric installation and to observe the following conditions:—

- (a) that on no day in the year will any person be employed for more than 12 hours and a half,
- (b) that the hours of commencement and end of work during each period of fifteen days are at the beginning of each calendar year notified to the inspector, and
- (c) that the average period of work for each day in a year shall not exceed 12 hours a day;”

the existing clause being renumbered 28 (1).

He said: “Sir, this amendment relates to a question which was brought before the Select Committee at a rather late stage of its prolonged deliberations, and though the Hon'ble gentleman then in charge, Mr. Robertson, expressed his inability to accept it, he was, if I understand him correctly, in considerable sympathy with it and felt that it was one which deserved, and which he thought would receive, the sympathetic consideration of Government. Sir, the proposal does not in any way involve any departure from or violation of the principle which the Government have embodied in clause 28. Their great object is to secure the enforcement of a 12-hour day all through the year. This principle is not in any way sought to be circumvented or in any way foiled by what is proposed. Sir, as you are well aware and as the Council is well aware,

* That for clause 28 of the Bill as amended by the Select Committee the following be substituted, namely:—

“In every textile factory, there shall be, after it has worked for twelve hours, an interval of not less than one hour during which all work shall be discontinued.”

[Mr. Mudholkar; Sir Vithaldas D. Thackersey.] [21st MARCH 1911.]

the Factories Commission of 1908 deprecated direct limitation by legislation of the hours of adult male labour, and have strongly urged in paragraph 44 that if this object can be secured by an indirect method, every effort should be made to do that. This was what we sought to do by our previous amendment which has just been withdrawn—the amendment of Sir Vithaldas Thackersey. Now, the fate with which that amendment has met leaves little room to hope that this will fare better. I think it my duty, however, to make an effort once more and again to appeal to Government and to this Council, whether it is not desirable that even when this matter—the principle of which is commendable but the form of which is not acceptable in most quarters and about which there is general opposition amongst the people—whether this thing should not be presented to them in as acceptable a form as possible. Now, Sir, the principle of working by daylight hours was one which was urged very strongly before the Factories Commission, and they admitted that there was much to recommend it. They also admitted that the average working would come to about less than 12 hours a day—about 11 hours and 45 minutes or something like that. This would be the case in the Madras Presidency, the Bombay Presidency and in Central India where most of the cotton-mills are situated. In the northern part of the country, however, the hours in the hot season and the early part of the rainy season would be longer, and it is that which appeared to the Factory Commission as the weak point of the case. They pointed out that in certain places the working hours would extend to 13½ and 14½ hours, and that was the feature in the proposal then made before the Factories Commission which they considered undesirable. Now, Sir, that objectionable feature of the then proposal is now eliminated in what I have placed before the Council. Sub-clause (a) says that on no day in the year will any person be employed for more than 12¼ hours. So the serious defect, which existed in what was urged about daylight working at that time has been removed from the present proposal, and as we do not wish to exceed the limit of 12 hours, and as the result of the proposal will be to have something like 15 minutes less on the average every day for the working men, it is one which in no way violates the principle which section 28 lays down and which I would ask Government to accept in the case of those factories which give the further guarantee that they will not use any artificial light.”

The Hon'ble SIR VITHALDAS D. THACKERSEY : “ Sir, I beg to support the amendment moved by my friend the Hon'ble Mr. Mudholkar. In fact, later on an amendment to the same effect stands in my name, and if this is passed it will not be necessary for me to move that amendment. It will be in the recollection of the Council that I touched on this matter when the Bill was referred to the Select Committee in January. My principal reason in supporting this amendment is this. No one has said that any abuses have occurred or are occurring in any daylight factories. All the abuses of long hours and sweating of hands occur in factories provided with electric light, and it is not right that Government should come forward and interfere with the conditions of factories working for such a long number of years without sweating the hands. I may refer to the speech of the Hon'ble Mr. Harvey when he moved the Bill. He said :—

‘ The conditions which prevailed in 1891 have been radically altered. Had all factories continued to work daylight hours, it is improbable—I give my own opinion for what it is worth—that Government would have been called on to interfere afresh. But under the changed conditions it has been proved beyond possibility of doubt that abuses may arise which cannot be allowed to go unchecked.’

“ Now, certainly there are different sets of factories. There are factories working under a system of electric light and there are factories working under the ordinary daylight system, and I cannot understand how abuses can prevail in the factories working under daylight hours when these abuses could only come in where electric lights were introduced. The Hon'ble Mr. Mudholkar's amendment has provided that this clause is to apply in cases only when the mills are not provided with electric lights. Then, Sir, there is another reason. We have often been told in this Council—names

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have been mentioned - that the Hon'ble Sir Henry Proctor is strongly in favour of shortening the hours, that Mr. Bezouji Dadabhoy of Nagpur is also in favour of shortening the hours of labour and against the sweating of hands. Now, both of these gentlemen have given evidence before the Factories Commission that they are of opinion that the best system of working Indian textile mills is to work under daylight hours. The Bombay Chamber of Commerce in their letter to Government in 1908 said this. (This letter was signed by our friend Sir Henry Proctor. The letter is dated the 10th September 1908, after the report of the Factories Commission was submitted and when the Government of India circulated the official report of the Factory Commission for the opinion of different bodies):

‘In conclusion, while recognising that the question of daylight hours is a matter which would require different treatment in different districts owing to the natural variations of the hours of daylight, my Committee are of opinion that certainly in Bombay, which is the largest and most important factory district in India, mills should be allowed the alternative of working daylight hours. Their reasons for this suggestion are that such daylight hours average 12 hours and 6 minutes for the whole year, and that it was not until the introduction of electric light that any question arose with regard to excessive hours being worked. Many mills in the Bombay Presidency still work daylight hours, and it would be a distinct hardship on them and their hands who, my Committee understand, much prefer these hours, if they were compelled to change their system for one which would include working by artificial light. My Committee are aware that this means longer hours in the hot weather, but they do not consider that this constitutes any hardship as the health of the workers is much better in the hot weather than in the cold season, and therefore it is to their benefit to have the shorter hours in the latter season.’

“Then the principal objection that was raised in this Council and also elsewhere was that the conditions of different provinces are different and therefore what may be suitable for the Bombay Presidency may not be suitable for the Punjab or other provinces where the longest day is about 14 to 14½ hours. Now, Sir, in the first place, Punjab knows what is best for itself, and all the mills, which are only nine in number, have been provided with electric light, and therefore there is not the slightest reason that they should revert to the old system and work 14 hours in the hot weather and perhaps 10 hours in the cold weather and make their average about 12 hours when it will pay them to work under the present system. It is in the hot weather that they get their worst spinning conditions, and as they get their best spinning conditions in the cold weather it is quite natural that they will take the full advantage of the cold weather hours. The conditions are reversed in Bombay. In the cold weather the east wind blows and makes spinning difficult, and in the hot weather we get the western breeze and the conditions of spinning are better. So each province has to be judged from the conditions prevailing in that province, and after all under this amendment (I am sorry to see it is not mentioned in the Hon'ble Mr. Mudholkar's amendment but in my amendment—I have made that point very clear) we want to give the discretion to Local Governments, that Local Governments may allow factories to work daylight hours under certain conditions. The Government of India have always trusted Local Governments—whenever it suited them—and in this matter they might well trust the Local Governments to do best in the interests of the industries working in their district. I am not giving the power to anybody and everybody, but I am giving the power to Local Governments, and if the Government of India find that the Local Governments are not exercising their powers in the right way, they have always the power of dictating to Local Governments.

“Then, Sir, we have often been told that everybody speaks for the mill-owners but no one speaks for the mill-hand. In this case the mill-hands have expressed their opinion in a most decided way. When with the Factory Commission I was going round taking evidence of the hands in their own houses: we examined the hands very minutely and they expressed their opinion in a quite decided way. I need not take up the time of the Council by reading extracts. I think the Hon'ble Member in charge of the Bill will admit that as far as the facts are concerned hands have said and said distinctly that instead of working by artificial light and keeping themselves inside the factory in mill till 7 o'clock and getting home in cold weather

[*Sir Vithaldas D. Thackersey; Mr. Gokhale; [21st MARCH 1911.]*
Mr. Clark.]

after coming out of the hot room—they do not want that kind of condition to work in—they prefer to work an hour or a little longer in the hot weather and to get home by daylight. If we introduce artificial light, they will have to remain in the mill premises an hour longer. Some of them have to go two miles or more and have to walk that distance in the dark during the cold weather. The daylight hours will average during the year 11 hours and 49 minutes per day. So I do not think that anybody will work ten minutes less intentionally in order to get a little longer working in the hot weather. It will pay all of us to work by electric light and work 12 hours regularly a day. In Madras there are no mills fitted with electric light. Why come in the way of those whose natural conditions are such that they cannot work much longer? Places like Madras, where the natural day is practically 12 hours the whole year round, and places like Ahmedabad, where the hands work daylight hours. I will make myself clear. I am not putting this amendment with the idea that this is in any way better to the mills than working by electric light. I have said that working 12 hours a day regularly with electric light will pay us better. But I maintain that Government has no right to come in and dictate to the people that they shall not allow daylight working unless they can show that abuses have prevailed there. I hold, on principle, that Government should leave it to the good sense of the factory-owners rather than compel them to put electricity and work under artificial light. For these reasons the Government of India, I hope, will see their way to accept this amendment."

The Hon'ble MR. GOKHALE: "I beg to support this amendment and I do so for two reasons. I think, Sir, that in the interests of the operatives themselves such an arrangement would be better than the one proposed by the Government, of a rigid 12-hour day throughout the year. I am quite sure the operatives themselves would prefer this arrangement because they would understand it better. Our operatives are too ignorant to understand time quite accurately; they do not carry watches with them, whereas in regard to sunrise and sunset those are broad facts which everybody can understand. Therefore, in the first place, the daylight arrangement would be better from the standpoint of the operatives. Secondly, it is less liable to abuse. Abuse is possible only during three months when the days are longer than 13 hours. If efficient inspection is exercised during that time, the evil of abuse will be reduced to a minimum. But for nine months in the year there is no question of any abuse, since there would be no electric fittings,—and the Government should insist upon this,—and therefore no factory working by daylight can work for more than 12 hours during that period even if it wanted to. On the other hand, with electric fittings and a rigid 12-hour day throughout the year, inspection will be required all twelve months. For these reasons, I support the amendment."

The Hon'ble MR. CLARK: "I think, Sir, it must be admitted at once that this proposal is a great improvement on the other more artificial schemes which have been suggested for securing restriction of hours of labour. It does seem at first sight a very reasonable thing that working should be limited to the actual hours of daylight. The proposal which was originally put forward before the Factory Commission admitted of unrestricted working in the summer months, and that of course was open to the very serious objection that the longest time of working was at the hottest time of the year and in some mills would extend to 14 or 14½ hours a day—a proposal which Government could not consider for a moment. The present amendment shares to some extent in that objection. The proposal is that the maximum amount of employment should never exceed 12½ hours in the year and that the average period of work should not exceed 12 hours. But you will still have your longest time in the hottest weather. That is still, I think, a very serious objection. Twelve hours, after all in any country would be considered a very long time to work; it ought to be considered even longer here where climatic conditions are not suitable to long-sustained effort. Towards the end of the day every half-hour must be considered to count, and the real difficulty which prevents this proposal being accepted is that it entails that extra half-hour being worked in the hottest time of the year.

[21st MARCH 1911.] [Mr. Clark; Mr. Mudholkar.]

Both the Hon'ble Sir V. Thackersey and the Hon'ble Mr. Gokhale have made a good deal of the point that the operatives themselves would prefer it. Now, on that point there is a great difference of opinion. The Factory Commission, as I think Hon'ble Members must be aware, took a different view. The operatives were examined by members of the Commission personally, and this was the conclusion they came to. The Commission say:

'The point is in the last resort one of individual opinion, but we do not agree with Sir V. Thackersey that he has correctly represented the views of the majority of operatives on this question.'

"I admit that it must be—the Commission themselves admitted that it must be—to a large extent a matter of opinion; but I do not think the Government can well go outside the opinion expressed by the Commission. In any case, as the Commission further point out, it is exceedingly likely that the operatives may not understand what is meant by working with electric light. To them electric light means excessive hours. We trust that when this Bill is in operation they will find that it does not mean excessive hours. In Bombay, no doubt, daylight working would make very little difference; but it is hardly necessary for me to remind Hon'ble Members that India is a very large country in which the climatic conditions differ widely in different regions. When you go further north you get longer summer days, and you will then get your full 12½ hours working in the hot weather.

"Then there is another point to be considered. This proposal is put forward—I say it in no spirit of criticism—mainly in the interest of the mills. Mill-owners would prefer it to having direct restriction. But if the figures are worked out, it is not apparent that any substantial advantage would accrue to mill-owners by the permission to work daylight hours with the limitations imposed in this amendment. The average hours for a mill working daylight hours with a limit of 12 hours per day, and secondly the average hours for a mill working daylight hours with a limit of 12½ hours, have been roughly worked out on the basis of the longest and shortest day given for each centre in the Factory Commission's Report. The result is that in Madras under the first head the average working day would be 11 hours 51 minutes, and under the second head 12 hours; in Bombay under the first head 11 hours 44 minutes, and under the second head 11 hours 53 minutes; in Ahmedabad 11 hours 43 minutes and under the second head 11 hours 53 minutes. It is difficult to believe therefore that the concession of 12½ hours working in summer would be of very great value.

"Then there is another administrative difficulty which has not been touched upon. We have heard a good deal to-day of the necessity as far as possible of making women's and children's hours fit in with those of adult labour. It has not been actually stated, but I suppose in a scheme of this kind it is proposed to make the hours of children fit in with those of adults by working them for half the time which adults will be working on any given day. Consequently they will have to work 6½ hours when the adults are working 12½ hours; and this will be at the hottest time of the year. The same objection therefore applies as in the case of adults. There is also the difficulty of inspection. You have to average your 12-hour day over the year and you will get fractions of an hour and even odd minutes. It will be exceedingly hard to see that these fractions and minutes are duly observed. I am afraid that Government cannot accept this amendment."

The Hon'ble Mr. MUDHOLKAR: "After the reply of the Hon'ble Member for Commerce and Industry I should not be justified in taking up the time of the Council; but I will only make one or two remarks. The hottest days in the year are also the most healthy days in India; that is all I need say in regard to the half-hour which it is pointed out they will have to work in May, June and July. The days are hot, but these are the days when mortality and sickness go down very much, except when there is an epidemic.

"Then another point as to the administrative difficulty in regard to the inspectors. Well, Sir, that is an administrative difficulty which exists every day with the 12-hour day. It will exist for a much longer time than it would

[Mr. Mudholkar; the President; Mr. Clark.] [21st MARCH 1911.]

otherwise exist if the proposal which I have brought forward were accepted. There will be an electric installation in every mill. What is there to prevent them working those people every day for 12½ hours or even for 13 hours? The objection pointed out by the Hon'ble Mr. Clark is one which would apply as much if there is a rigid 12-hour day, as if the system is made elastic as I propose.

"But there is one thing which has not been adequately dealt with by the Hon'ble Mr. Clark, and it is this. Why should the mills in the mufassal which have not yet put up any electric installations, be as it were compelled to do so? That is an aspect of the matter so effectively pressed by my friend Sir Vithaldas Thackersey which deserves consideration. Some do say that every one would put up an electric installation and we must have it. Sir, in this country, whenever anything of a general character is proposed by the popular side, we are told that India is a continent, is a congeries of nations living in one continent, and that we should not seek to have a rigidly uniform system throughout the country. While not agreeing with those who bring forward this objection ever and anon, I would ask, is it fair that the Act should practically compel every factory-owner to put up an electric installation?"

The amendment was put and negatived.

THE PRESIDENT: "I understand the Hon'ble Mr. Birkmyre withdraws his amendments Nos. 14, 15 and 16."*

THE HON'BLE SIR VITHALDAS D. THACKERSEY: "I do not propose to move this amendment† in the circumstances. I beg to withdraw it."

THE PRESIDENT: "Then we come to amendment No. 18,‡ which is to be moved by three Hon'ble Members. I presume that also is withdrawn."

The amendment was withdrawn.

Amendments 19§ and 20|| were also withdrawn.

THE HON'BLE MR. CLARK moved that to clause 37, sub-clause (2) (j), of the Bill as amended by the Select Committee, the following words be added, namely:—

'and the provisions to be made for the protection from danger of persons employed in attending to the machinery or boilers.'

He said:—"This amendment is consequential on the amendment of clause 18 which has already been passed, and I ask that it may be accepted at once."

The amendment was put and agreed to.

* (14) That in clause 29, sub-clause (1), of the Bill as amended by the Select Committee, for the words "half-past five" the word "six" be substituted.

(15) That after clause 29, sub-clause (1), of the Bill as amended by the Select Committee, the following sub-clauses be inserted, namely:—

"(8) Nothing in sub-section (1) shall apply to any person employed on—

(a) the work of calendering, finishing, sewing or tailoring, or

(b) the work of cloth-printing, bleaching or dyeing, or

(c) any work specified in Part A of Schedule I.

"(9) Where it is proved to the satisfaction of the Local Government that any work not specified in Part A of Schedule I is of an urgent nature, or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any person employed on such work from the operation of sub-section (1) on such conditions, if any, as it may impose;" and that sub-clause (2) be renumbered (4).

(16) That clause 30 of the Bill as amended by the Select Committee be omitted.

† That in clause 30, the words and figures "section 28 or", each time they occur, be omitted.

‡ That clause 31 of the Bill as amended by the Select Committee be omitted.

§ That in clause 33 of the Bill as amended by the Select Committee, for the word "six" the words "six and a half" be substituted.

|| That after clause 32 of the Bill as amended by the Select Committee, the following clause be added, namely:

"(9) The Local Government may, subject to the control of the Governor General in Council, exempt any textile factory which undertakes to work by daylight hours only, and not to use artificial light, from the provisions of sections 28 and 31:

"Provided that the largest working day in any such factory shall not exceed twelve and a half hours and the average working in such factory during the whole year shall not exceed twelve hours a day."

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[*Sir Vithaldas D. Thackersey; Mr. Clark; Mr. Gates.*]

The Hon'ble SIR VITHALDAS D. THACKERSEY: "I would request the Hon'ble Member in charge to make a declaration on this point, that it is not the intention of the Government of India to have dual control by framing rules under this section, because there will be rules under the Boiler Act and there will be rules under this Act, and therefore the Government of India should make that point clear, that the intention is that wherever the Boiler Act does not apply this Act will apply."

The Hon'ble MR. CLARK: "Certainly, Sir. I can give this assurance at once. There is no intention of making rules which would clash. Every care will be taken to see that they are kept distinct."

Amendments Nos. 23* and 24† were withdrawn by the Hon'ble MR. BIRKMYRE.

The Hon'ble MR. CLARK: "I beg to move that in clause 41 of the Bill as amended by the Select Committee, for sub-clause (f) the following be substituted, namely:

"(f) any of the provisions of section 18, sub-sections (1), (3), and (4), regarding fencing and the protection from danger of persons employed in attending to the machinery or boilers are not complied with."

"This amendment is also consequential on the amendment of clause 18."

The amendment was put and agreed to.

The Hon'ble MR. GATES: "Sir, I beg to move that after clause 54 of the Bill as amended by the Select Committee the following new clause be inserted, namely:—

'55. Notwithstanding anything in section 22, sub-section (1), any person may in the province of Burma be employed on Sunday for any time not exceeding four hours in cleaning the machinery and apparatus in a factory provided that he has not worked in the factory later than two o'clock in the afternoon on the previous day,'

and that the subsequent clauses of the Bill be re-numbered.

"There has been a long-standing custom in Rangoon that the factories close early on Saturday afternoon and that the operatives come on Sunday morning to do the cleaning up of the factories. This point was mentioned in the Select Committee and no objection was entertained in the Select Committee to make provision for the custom at Rangoon in this particular. But when the Report of the Select Committee was prepared other more important matters occupied attention, and this comparatively small point was overlooked. At present some of the factories do not close so early as 2 P.M., and some of them occasionally employ men for more than four hours on Sundays; but the proposal embodied in this suggested new clause is considered to be a fair compromise, and as it was not dealt with in the Report of the Select Committee I ask the Council to deal with it now."

The Hon'ble MR. CLARK: "Government can accept this amendment."

The Hon'ble SIR VITHALDAS D. THACKERSEY: "Mr. President, I have no objection if this amendment is accepted, but I do not see why it should be confined to Burma. I mean, we can say that—

'Notwithstanding anything in section 22, sub-section (1), any person may be employed on Sunday for any time not exceeding four hours in cleaning the machinery and apparatus in a factory: provided that he has not worked in the factory later than two o'clock in the afternoon on the previous day.'

"I can quite understand that there are advantages under this section, and although it is not the practice in other parts of India to close down at 2 o'clock

* That in clause 51, sub-clause (2), of the Bill as amended by the Select Committee, for all words after the word "namely" the following be substituted:—

"Five-thirty o'clock in the morning and six-thirty o'clock in the evening;
six-thirty o'clock in the morning and seven-thirty o'clock in the evening; and
seven o'clock in the morning and eight o'clock in the evening."

† That in clause 52 of the Bill as amended by the Select Committee, the words and figures "section 29" be omitted.

[*Sir Fithaldas D. Thackersey; Mr. Clark; Mr. Dadabhoi; Mr. Mudholkar.*] [21st MARCH 1911.]

on Saturday and get the machinery cleaned on Sunday, it is to the advantage of operatives under certain circumstances to follow that practice. It may not pay us at present to do so, because when we work our mills a full day on Saturday we get production over which we make some profit; but there are certain advantages which may ultimately accrue. Gradually as our children get education under the Bill that we discussed the other day, they might want a half-holiday on Saturdays to play cricket matches, and so on, instead of being at the factory cleaning the machinery up to 3 or 4 o'clock. Under such conditions it would be an advantage to let them go at 2 o'clock and the next day they may come to clean the machinery. On the whole, if that is an advantage for the workmen of Burma, that would be an advantage to workmen all over India, and I do submit, Sir, that the words 'in the province of Burma' might be omitted."

The Hon'ble MR. CLARK: "Sir, the Hon'ble Member has himself supplied the reason why this amendment must be limited to Burma. He told us that it is not the practice in other parts of India to work on this plan. We could not agree to give the opportunity throughout India, where it has not existed before, of extending working to every day of the week. One cannot shut one's eyes to the fact that it is not really an equivalent holiday to give a man two half days instead of a whole day once a week. But as the Burmans have always been in the habit of having this arrangement, and as it would be a practical hardship and would create discontent among them if we insisted on their having the whole of one day off instead of two half days, this section has been accepted as a special concession in view of the existing state of things in Burma. I am afraid we cannot extend it to the rest of India."

The amendment was put and agreed to.

Amendments Nos. 26 and 27* were withdrawn by the Hon'ble MR. BIRKMYRE.

The Hon'ble MR. DADABHOI: "Sir, I move that in Schedule I, Part A, clause (c), of the Bill as amended by the Select Committee, after the words 'cleaning of' the following be inserted, namely:

'walls, ceilings or other portions of factory buildings, tanks, wells.'

"I have very few words to say about this amendment, and I hope that it will be readily accepted by Government. Schedule I, Part A, applies to certain exemptions where work of an urgent nature or such as in the interest of efficiency is commonly performed while the main manufacturing process of the factory is discontinued. Section 21 of the Bill applies to periodical stoppages, section 22 to weekly holidays, and section 23 to the employment of children.

"The work to which my amendment refers cannot be conveniently and efficiently done during the hours textile factories are actually working. The object of my amendment is to exempt all such important works such as cleaning of walls, ceiling or other portions of factory buildings, as well as tanks and wells from the operation of these sections."

The Hon'ble MR. CLARK: "I think, Sir, that this amendment is certainly an improvement on the Bill and Government are very pleased to accept it."

The amendment was put and agreed to.

The Hon'ble MR. MUDHOLKAR: "Sir, I beg to move that in Schedule II, Part A, of the Bill as amended by the Select Committee, for the words "in mineral oil refineries" the words "oil refineries" be substituted.

"This is an amendment, Sir, which only brings Part A of Schedule II into conformity with Part B of Schedule I. The process of refining is a continuous one and cannot be stopped when it is once begun. It cannot be finished in a

* That in Schedule I of the Bill as amended by the Select Committee, for the figures "30", each time they occur, the figures "28" be substituted.

That for references to clauses 20 and 32 and the following clauses, wherever they occur, references to the corresponding clauses as renumbered be substituted.

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day and it has for technical reasons to continue once it has begun. For the same reason that mineral oil refineries had to be mentioned in Part A of Schedule II, vegetable oil refineries should also be mentioned. The matter was explained to the Hon'ble Member in charge and I hope that Government will accept this amendment."

The Hon'ble Mr. CLARK: "Sir, I do not think that Government need object to the deletion of the word 'mineral' and to the proposal to read 'oil refineries' instead of 'mineral oil refineries.' But I may point out that if the substitution is to be made in Schedule II, Part A, it ought also to be made in Schedule I, Part B."

The amendment was put and agreed to.

The Hon'ble Mr. CLARK: "Perhaps it would be more in order if I first moved that the word 'mineral' should be omitted in Schedule I, Part B."

The motion was put and agreed to."

The Hon'ble Mr. CLARK moved that the Bill, as now amended, be passed.

The Hon'ble Mr. GOKHALE: "Sir, I wish to say a word before this motion is put to the vote. I wish to express my satisfaction that the batch of amendments, of which the Hon'ble Mr. Birkmyre had given notice, have been withdrawn. Those amendments all hung together, and one essential part of them was that the working hours of children should be extended from 6 to 6½ hours. This was a most objectionable provision, and, as the amendments all hung together, I am glad that they have all gone. But, apart from that fact, Sir, the procedure that was adopted in announcing those amendments to this Council was open to serious objection. I think I may say that never before in the history of this Council has a private Member been permitted to announce his amendments in a set speech at a meeting of the Council. What added to the curiousness of the whole thing was the blessing that the Hon'ble Member in charge of Commerce and Industry was at that time understood to pronounce upon those amendments. The whole thing looked as though an arrangement was being come to between the Government and the jute industry. It was stated at that time that Mr. Birkmyre's proposal of a 6 A.M. to 7 P.M. day had never been brought before the Select Committee; that it was a new proposal and that therefore it had to be announced in Council. Of course, the proposal was technically new; it had not been formally brought before the Select Committee, because the Hon'ble Mr. Robertson had made it quite clear that on that question the Government were not open to entertaining any proposals; otherwise, anybody could have suggested it, as it was the most obvious thing, the most natural thing, to propose that a day should begin at 6 instead of at 5-30 A.M. As a matter of fact, I did inquire why it was necessary to have a total duration of 13½ hours, and the Hon'ble Mr. Robertson explained that in Upper India it was the practice to stop work for an hour and a half in the middle of the day, and, in order to provide for that hour and a half, it was necessary to begin at 5-30 A.M. and close at 7 P.M. However, all's well that ends well. I am glad that the amendments have not been pressed and that the suspicion that some of us entertained has now been dispelled."

The Hon'ble Mr. CLARK said: "Sir, I should like to express my regret that, owing to the laudable desire of the Hon'ble Mr. Birkmyre not to waste the time of the Council and consequently withdrawing his amendments, the Hon'ble Mr. Gokhale should have been precluded from referring to this matter when those amendments were before us. Now, as to the remark of the Hon'ble Mr. Gokhale that it was an unprecedented thing for a private Member like the Hon'ble Mr. Birkmyre to be permitted to announce his amendments to Council when the Bill was not under consideration, all I wish to say is that it was not Mr. Birkmyre but I who announced those amendments. The reasons for doing so I stated then, and I have stated them again in my speech to-day; and I hardly think it is necessary for me now to state them again at any length. I considered those amendments of special importance because of the Hon'ble Mr. Birkmyre's peculiar position as the

accredited representative of the jute industry appointed to this Council in special connection with this Bill; and therefore it was not an unreasonable supposition that any amendments which came through him would be put forward not only on behalf of his own industry but to a very large extent on behalf of the textile industry generally. Well, it would no doubt have been open to us to recommit the Bill in connection with those amendments; but that would have meant that, if they had been accepted, the Bill would have had to have been recirculated and passed into law under the present procedure somewhere about this time next year. I do not think the Hon'ble Member, who has always championed the cause of labourers and of children, would have wished that to have been done. That would have meant that the Bill, if passed into law next year, would not have come into operation until the year after. It seemed to Government that it would be far better that I should make a statement about these amendments, get them known, and have them criticised at once, so that we might be able to proceed to the consideration of the Bill without delay. I must confess that I am rather puzzled to know what there was in my statement which led the Hon'ble Mr. Gokhale to the conclusion that I intended to accept those amendments. My statement was meant to be entirely colourless. I merely stated what the Hon'ble Mr. Birkmyre proposed, so far as I understood the purport of his amendments."

The motion was put and agreed to.

The Council adjourned to Friday, the 24th March 1911.

J. M. MACPHERSON,

*Secretary to the Government of India,
Legislative Department.*

CALCUTTA; }
The 3rd April 1911. }