

*Tuesday,  
3rd January, 1911*

**ABSTRACT OF THE PROCEEDINGS**

**OF THE**

*Council of the Governor General of India,*

**LAWS AND REGULATIONS**

**Vol. XLIX**

**April 1910 - March 1911**

ABSTRACT OF PROCEEDING  
OF  
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

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**VOLUME XLIX**



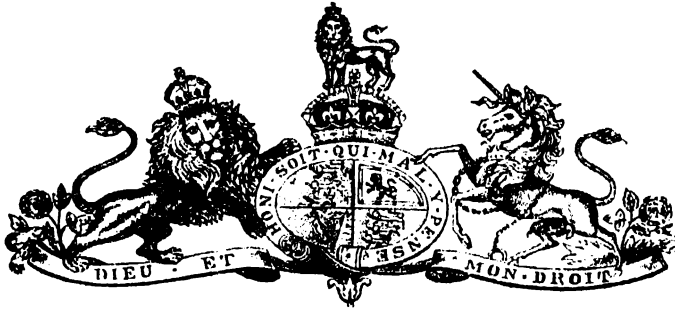
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1911



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. 67, 55 & 56 VICT., c. 14,  
AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Tuesday, the 3rd  
January 1911.

PRESENT :

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O.,  
G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*,

and 60 Members, of whom 53 were Additional Members.

OATH OF OFFICE.

The following Additional Members, before taking their seats, made the  
prescribed oath or affirmation of allegiance to the Crown :—

The Hon'ble the Prince of Arcot.  
The Hon'ble Mr. Montcath.  
The Hon'ble Lieutenant-Colonel Davies.  
The Hon'ble Mr. LeMesurier.  
The Hon'ble Mr. Wood.  
The Hon'ble Mr. Porter.  
The Hon'ble Mr. Fremantle.  
The Hon'ble Mr. Graves.  
The Hon'ble Mr. Birkmyre.

PRESIDENT'S OPENING REMARKS.

His Excellency THE PRESIDENT said :—“ Your Honour and gentlemen, as  
this is the first occasion on which I have been called to preside over this Council,  
I should like to say how much I appreciate the honour and how deeply I feel  
the heavy responsibility that it entails.

“ It is to me a source of sincere satisfaction that I am called upon to preside  
over the reformed Legislative Council, of which the merit is, I believe, largely  
due to the wisdom of my predecessor, Lord Minto. The extension of the elective

[The President; Mr. Dadabhoj; Mr. Robertson.] [3RD JANUARY 1911.]

system, the increase in the number of our members and the enhancement of our powers lend weight and interest to our deliberations, upon the result of which depend the happiness and welfare of so many millions of our fellow-subjects. It is the duty of this Council to discuss subjects that are generally complex and sometimes contentious. It would be neither natural nor desirable that these questions should not provoke disagreement amongst us; but I hope and believe that a frank expression of opinions may assist us to understand each other and to appreciate one another's point of view. At the same time I trust that our deliberations may be animated by a spirit of mutual concession, and I am confident that I may count upon you, gentlemen, to assist me in maintaining the high standard of dignity and courtesy that has hitherto characterised the proceedings of this Council, and that is worthy of the high traditions of this assembly."

QUESTIONS AND ANSWERS.

The Hon'ble MR. DADABHOJ asked :—

"A. Has the attention of Government been drawn—

(a) to the statement at page 18 of Mr. J. G. Cumming's Special Report on the Bengal Industries, Part II:

'The prohibitive rates against tanned goods on the Continent and America prevent any export';

(b) to the statement at page 189 of Mr. A. C. Chatterji's 'Notes on the Industries of the United Provinces';

'The sale among European visitors and tourists has also contracted owing, I was told, to a heavy import-duty in the United States and the continent of Europe'; and

(c) to the statement at page 20 of Mr. G. N. Gupta's 'Survey of the Industries and Resources of Eastern Bengal and Assam';

'I am informed that about two or three years ago *endi* fabrics found a market in Australia, and consequently the trade in *endi* was very brisk for two or three years, but recently it appears heavy import-duties have been imposed on the Assam cloth, and therefore its sale in Australia has practically ceased'?

"B. Is it true that heavy import-duties are imposed in Europe and America on Indian tanned goods and gold and silver art ware, and in Australia on Assam *endi*? If so, what steps have Government taken or propose to take for the protection of Indian interests?"

The Hon'ble MR. ROBERTSON replied :—

"The attention of the Government of India has not been specially drawn to the three statements quoted. They are aware that heavy import-duties are imposed in some European countries and in America on tanned goods and gold and silver art ware. The import-duty on Indian silk goods entering Australia has remained at 15 per cent. *ad valorem* for a number of years, and it would appear, therefore, that the recent decline in the export of silk goods to Australia cannot be attributed wholly to the rate of duty imposed.

"His Majesty's Government reserve the right of making such representations as they think suitable in the case of foreign or colonial tariffs which affect Indian interests; but the Government of India do not consider that it is desirable at present to move in the matter of making representations regarding the duties referred to by the Hon'ble Member."

The Hon'ble MR. DADABHOJ asked :—

"Has the attention of Government been drawn to the following remarks at page 2 of Part I of Mr. J. G. Cumming's Special Report styled 'Technical and Industrial Instruction in Bengal':

'It is unfortunate that the Report of Mr. Collin was not formally published . . . . . Five years after its preparation I was informed, when I asked for a copy, that it was confidential'?

"Is Mr. Collin's Report still treated as confidential? If so, why so? Will Government be pleased to publish it?"



[3RD JANUARY 1911.] [*Mr. Butler; Mr. Dadabhoj; Mr. Carlyle; Mr. Robertson; Mr. Madge; Sir G. F. Wilson; Mr. Monteath.*]

The Hon'ble MR. BUTLER replied :—

“Mr. Collin's Report will be found at page 188 and the following pages of the Selection of Papers, published in 1906, relating to Technical Education in India, 1886—1904, copies of which can be obtained from the Superintendent Government Printing, India.”

The Hon'ble MR. DADABHOJ asked :—

“Has Government received an Irrigation Project for the District of Balaghat in the Central Provinces known as the Weinganga Project? Is the total estimated cost under seventy-five lakhs of rupees? Has it been sanctioned by Government? Is it the intention of Government to provide next year for its execution?”

The Hon'ble MR. CARLYLE replied :—

“The Weinganga project was received from the Local Administration on the 12th December, 1910, and is now being examined. Its cost is estimated by the Local Administration at Rs. 36,88,045 for direct charges only and at Rs. 38,03,204 including indirect charges. Until it has been approved by the Government of India and sanctioned by the Secretary of State it would be premature to say when its execution will be commenced.”

The Hon'ble MR. DADABHOJ asked :—

“Is it true that the Japanese Government has manufacturing departments with the object of pioneering industries? Has the experiment been successful? If so, will this Government be pleased to try it for the introduction of new industries in India?”

The Hon'ble MR. ROBERTSON replied :—

“The Government of India have no knowledge of the establishment by the Japanese Government of manufacturing departments with the object of pioneering industries.

“As regards the last part of the question, efforts have in the past been made by Government to demonstrate, by State manufacture, the commercial merits of particular industries, for example, the aluminium and chrome leather industries. In view, however, of the strong protests received from the commercial public on the ground of possible competition of such ventures with private undertakings, and in pursuance of the policy which has recently been laid down by the Secretary of State with regard to the whole question of State assistance to the industrial progress of the country, the Government of India are not at present prepared to undertake experiments in this direction.”

The Hon'ble MR. MADGE asked :—

“Will the Government be so pleased as to state whether all the places in the Enrolled List of the Financial (Accounts) Department that may under the existing rules be held by members of the domiciled community have been filled by members of that community; and, if not, whether any vacancies of the class referred to remain unfilled because no suitable recommendations for them have been made by competent authority?”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“I would refer the Hon'ble Member to the reply which I gave to him on this subject on the 29th of March last. There are no appointments in the Finance Department specially reserved for members of the domiciled community. Such candidates are appointed either after competition or by nomination; and several of them have been recruited in this manner.”

The Hon'ble MR. MONTEATH asked :—

“Is it a fact that considerable cotton grain seeds traffic comes from Aligarh, Chandausi and Moradabad Districts to Bombay?”

“Has the attention of Government been drawn to the fact that Bombay is at present suffering through the absence of a shorter route, and the difficulties of blocking rates, supply of rolling stock and delays of wagons?”

“Will the Government be pleased to state whether it intends to set aside the question of the extension of the Nagda-Muttra line to Aligarh, and, if so,

[Mr. Montcath; Sir T. R. Wynne; Mr. N. Subba [3RD JANUARY 1911.]  
Rao.]

for what reasons? Will the Government be further pleased to state whether there is any objection to such extension other than that the East Indian Railway might ask for retaliatory measures?"

The Hon'ble SIR T. R. WYNNE replied :—

"On the authority of the statement made in the Bombay Chamber of Commerce's letter No. 827, dated the 25th September 1909, to the Government of Bombay, it may be accepted as a fact that a considerable trade in cotton-grain and seeds is now drawn from Aligarh, Chandausi and Moradabad Districts to Bombay.

"The attention of Government has been drawn to the statement made by the Bombay Chamber of Commerce that Bombay was suffering through the absence of a shorter route, the difficulties of blocking rates, the supply of rolling stock and delays in wagons, and that all these difficulties would be removed if one of the Bombay Railways constructed a line connecting Muttra with Aligarh.

"But in light of the admission by the Chamber that a considerable trade with Bombay from the districts referred to was being carried on, the inference is that the difficulties complained of were not practically very serious, and taking the claims of Calcutta into consideration it was probable that Bombay was receiving its fair share of the traffic.

"As at present advised, the Government of India are not prepared to permit one of the Railways, whose head-quarters are in Bombay, to construct a line from Muttra to Aligarh. If the line is eventually constructed, it will be by some other agency.

"Their reasons for this decision are :—

- (1) That the construction of this line will practically cause no difference in the distances between Aligarh and Bombay by existing routes when the lengths of the present routes are compared.
- (2) That a broad gauge line has been provided for in next year's programme from Biana, a station on the Nagda-Muttra Railway, to Agra, and this will afford a through broad gauge route from Aligarh to Bombay and avoid transshipment. The construction of this line will be put in hand at once.
- (3) That although the objective is apparently only Aligarh, the practical effect of allowing a Bombay Railway to extend there would be to give them access to the whole of the northern area served by the Oudh and Rohilkhand and other Railways and cause a very severe dislocation of existing trade interests centering in Calcutta and other parts of India. The Government of India are not prepared to agree to take any steps which would produce the war of rates and measures of retaliation, which would certainly follow if a Bombay Railway extended to Aligarh, and consider the considerable trade which Bombay now admits it is drawing as a fair share of the traffic of the area it wishes to invade."

The Hon'ble MR. N. SUBBA RAO asked :—

"(a) Will Government be pleased to state whether the proposed contract with the South Indian Railway Company has been entered into by the Secretary of State?"

"(b) Is it a fact that under clauses 8 and 9 of the said contract District Boards and other Agencies are placed at a great disadvantage in the construction of short circuit lines and branch lines, and that the principles embodied in the said clauses are likely to cause serious injury to District Boards in undertaking new lines and retard further railway development in Southern India?"

"(c) Will Government be pleased to lay on the table a copy of the contract as finally agreed to and correspondence on the subject between the Madras Government, the Government of India and the Secretary of State?"

[8RD JANUARY 1911.] [Sir T. R. Wynne; Rao Bahadur R. N. Mudholkar; Mr. Robertson; Mr. Butler.]

The Hon'ble SIR T. R. WYNNE replied :—

“ The answers to the questions are—

“ To (a) that the actual contract in legal form has not yet been finally signed by the Secretary of State and the South Indian Railway Company, but the general principles on which the contract is to be framed have been duly agreed to by both parties finally.

“ As regards (b) Government are not in a position to express an opinion on the points raised by the Hon'ble Member. I may point out that the new contract only came into force on the first of this month.

“ To (c) it is not usual to make public the papers which, it is asked, should be laid on the table.”

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

“ (a) Has the attention of Government been drawn to the fact that various articles prepared in foreign countries and imported into India bear misleading descriptions, impressions or marks, calculated to cause the belief among purchasers and consumers that they were made in India?

“ (b) Will Government be pleased to state whether such procedure is not opposed to the principles and provisions of the Sea Customs Act and the Merchandise Marks Act and the rules thereunder, and whether steps should not be taken, by legislation if necessary, to prevent misleading descriptions or impressions?”

The Hon'ble MR. ROBERTSON replied :—

“ The Government of India are aware that attempts have from time to time been made to import into India articles made in foreign countries and bearing false trade descriptions calculated to cause the belief that they were made in India. The importation of such articles is prohibited by the Indian Merchandise Marks Act and the Sea Customs Act, and action is taken against the practice by the Customs-authorities at the various ports. The provisions of these Acts appear to the Government of India to be adequate for preventing the entry of such goods.”

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

“ Will Government be pleased to take into consideration the suggestion made in Resolution I passed at the Indian Industrial Conference held at Madras in December 1908, recommending the formation in each Province of an Advisory Board consisting of qualified officials and non-officials to advise the Local Government in regard to the introduction of new or development of existing industries, the carrying out of investigations and experiments with a view to such action, and the measures to be taken from time to time for promoting technical and industrial education suited to the resources and condition of the Province?”

The Hon'ble MR. BUTLER replied :—

“ The appointment of Advisory Boards has been recommended in four Provinces—Madras, the United Provinces, Eastern Bengal and Assam and the Central Provinces—and the recommendation has been accepted by the Local Governments concerned. The matter is primarily one for Local Governments, who are interesting themselves in it.”

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

“ (a) Will Government be pleased to state what are the opinions elicited in the inquiries made some years ago about the feasibility and desirability of standardization and unification of weights and measures in this country?

“ (b) Are there any serious difficulties in the way of action in this matter?”

The Hon'ble MR. ROBERTSON replied :—

“ On a proposal for the unification of weights and measures in the Bombay Presidency being submitted to them by the Local Government, the Government of India, in January 1890, requested Local Governments and Administrations to submit information regarding the different weights and measures in use in the several Provinces, and to state their opinion as to the best system of weights and measures capable of being generally adopted, and the steps which should be taken to provide for its general application. Subsequently they

[*Mr. Robertson; Rao Bahadur R. N. Mudholkar; [3RD JANUARY 1911.]*  
*Sir T. R. Wynne; Mr. Sachchidananda Sinha.*]

forwarded for the consideration of Local Governments a scheme which had been suggested to them for the assimilation of English and Indian standards of weight by the adoption of a scale of weights based on a tola of 175 grains, which would have made a seer of 80 tolas exactly the equivalent of 2 pounds avoirdupois.

"The inquiries made by Local Governments showed that throughout India proper the tola of 180 grains was used almost everywhere as the basis of weighments. This was exactly the weight of a rupee, and in fact the papers showed that the rupee was largely used in weighing retail transactions. The scheme was objected to on the ground that the reduction of the tola from 180 to 175 grains would practically involve a corresponding reduction in the weight of the rupee, to which there were strong financial and other objections.

"As regards the general question of the introduction of a uniform system of weights and measures, there was much difference of opinion as to the advisability of taking such a course. The majority of Local Governments were opposed to the immediate prescription of weights and measures by law; they were of opinion that action in this matter should be taken gradually, the important municipalities taking the lead.

"As regards the last part of the question, I may point out that in a country where a variety of weights and measures is in use, the prescription of a system of weights and measures differing from those sanctioned by local custom is likely to occasion serious disturbance of existing conditions. It would also be extremely difficult to fix weights and measures which would be generally suitable; and even if it were possible to devise suitable standards, it would not be an easy matter to secure their adoption without recourse to measures of compulsion which would be undesirable in the circumstances of India."

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

"Is it a fact that the importance and remunerative character of the Basim-Akola Railway has been admitted and recognised for more than twenty years, and the earthwork over a considerable portion of which was done nearly fourteen years ago has not been taken up? If so, will Government be pleased to state why the said Railway project has not been taken up?"

The Hon'ble SIR T. R. WYNNE replied :—

"The Government of India are aware of the importance of the Akola-Basim Railway, and it is a project which is well forward in the list of lines to be undertaken at as early a date as funds permit."

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

"Now that the section between Shergaon and Nagpur is to be doubled, will Government be pleased to consider the desirability of taking the main line through Amraoti and so avoid the inconvenience of such an important town being on a short branch?"

The Hon'ble SIR T. R. WYNNE replied :—

"The Government of India have no objection to this suggestion being considered, but it must be pointed out that the change proposed would involve the abandonment of Badnera as an engine-changing station and all the works and staff buildings now in use there and the creation of a new engine-changing station at Amraoti.

"The interests of the residents of Badnera would also have to be considered."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"(a) Are the Government aware of the intense dissatisfaction caused amongst the bulk of the Hindu community by the publication of the Census Commissioner's circular in regard to the classification of their lower classes, and that public feeling has not been allayed by the issue of the communiqués on the subject?"

"(b) Will the Government be pleased to state if the said circular was issued in compliance with the wishes expressed by any of the classes proposed to be classified on the new lines? If so, which, when and where?"

"(c) Is the proposed new classification—or 'tabulation' as suggested in the communiqué—intended to serve any practical purpose in matters of administration or legislation; or whether it is being undertaken purely in the interest of scientific research?"

[3RD JANUARY 1911.] [*Mr. Sachchidananda Sinha; Mr. Butler; Mr. Jenkins.*]

"(d) If the object of the new scheme be the former, will the Government be pleased to state how and in what directions it is regarded as calculated to serve the end in view ?

"(e) If the object of the new scheme be the latter, will the Government be graciously pleased to direct that the result of the forthcoming Census, in this particular matter, be classified and tabulated in strict conformity with the lines adopted at the last Census and that no departure be made therefrom ? "

The Hon'ble MR. BUTLER replied :—

"(a) The Government of India are aware that the circular in question aroused hostile comment; but this was due to a misapprehension. It was thought that the circular contained instructions to exclude certain classes from the category of Hindus; but this was never intended. The Census Commissioner has already issued a communiqué explaining that the statements of all persons as to their religion will be accepted without demur, and that they will be classified accordingly in the Census Tables. It was never proposed to alter in any way the procedure followed in this respect at previous Censuses. The object of the circular was to consult Provincial Census Superintendents as to the feasibility of framing an estimate of the number of persons classed as Hindus who are not ordinarily regarded as such, and what standards should be adopted for the purpose. The circular contained no definite orders, nor will any decision be arrived at by the Census Commissioner until all the replies have been received and considered, together with the comments which have been made in the newspapers and elsewhere.

"The Government of India believe that any dissatisfaction caused by a misapprehension of the Census Commissioner's original proposal has been allayed by the issue of the communiqué alluded to.

"As regards sub-section (b) the question has not been raised by any of the classes concerned.

"(c) and (d). The object of the circular was to throw light on the statistics. It is clearly desirable that their precise bearing and signification should be explained.

"(e) As already stated, no change in the system of classification and tabulation is proposed."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"Replying to a letter of the Anglo-Indian Association (dated the 9th March 1910), the Officiating Chief Secretary to the Government of the Lower Provinces in his letter (published in the papers) is alleged to have written that 'the Government of India has no objection to Government servants being members of the Anglo-Indian Association or serving on its Council, provided that if the Association actively engages in any political movement, members or office bearers who are Government servants shall abstain from taking part in it.'

(a) Will the Government be pleased to state if that is a correct reproduction or interpretation of their order ?

(b) If so, will the Government be pleased to state if orders to the same effect have been or will be issued in favour of all other Government servants, granting them permission to join as members and act as office bearers of recognised political associations with the same limitation as that placed in the case of the Anglo-Indian Association ? "

The Hon'ble MR. JENKINS replied :—

"(a) The answer to the first part of the question is in the affirmative.

"(b) No orders of a similar character have been issued, but, if any other reference of a like nature is made by a Local Government, the Government of India will consider it on its merits."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"In reply to a question put in the Lower Provinces Council on the 28th February last, requesting the publication of the Hon'ble Mr. Gourlay's Report on the Bettiah disturbances of 1908, the Hon'ble Mr. Duke said that the Report was to be submitted, in due course, to the Government of India, and, that pending the receipt of the orders of that Government, the question of its publication could not be discussed.

(a) Will the Government be pleased to state whether they have received from the Government of the Lower Provinces the said Report and considered the same ?

[Mr. Sachchidananda Sinha; Mr. Jenkins.] [3RD JANUARY 1911.]

- (b) If so, will the Government be pleased to declare what steps they have either taken or propose to take in the matter?
- (c) Will the Government be pleased, in view of the public interests involved, either to publish the said Report or to direct that it may be published?"

The Hon'ble Mr. JENKINS replied :—

"The Government of India duly received from the Government of Bengal a report on the disturbances in the Champaran District which occurred in 1908. As the correspondence with the Local Government shows that the Lieutenant-Governor has taken steps which, in the opinion of the Government of India, are calculated to remove the grievances which appear to have afforded the occasion for these disturbances, they propose to take no action in the matter. The Government of India do not propose to publish their correspondence with the Government of Bengal on the subject."

The Hon'ble Mr. SINHA : "My question, my Lord, was not about the correspondence between the Government of India and the Government of the Lower Provinces, but about the publication of the Report, and I venture to ask if there is any harm in the publication of Mr. Gourlay's Report."

The Hon'ble Mr. JENKINS : "The Report is an essential part of the correspondence, and I am afraid we must adhere to our decision not to publish it."

The Hon'ble Mr. SACHCHIDANANDA SINHA asked :—

"Has the attention of Government been called to the widespread dissatisfaction with many features of the present Regulations for election to the Imperial and several Provincial Legislative Councils and the declarations of the late Secretary of State and the late Viceroy that the Regulations would be modified in the light of experience?"

"Will the Government be pleased to consider the desirability of revising the Regulations, and to state whether they will appoint Provincial Committees of qualified representatives of the different classes of the people and the several interests together with officials to investigate the changes needed, and make recommendations accordingly, and a similar Committee to revise the Regulations concerning the Imperial Legislative Council?"

The Hon'ble Mr. JENKINS replied :—

"The Government of India are aware that dissatisfaction has been expressed by members of certain classes of the community with some of the features of the present Regulations for election to the Imperial and Provincial Legislative Councils. They are not, however, aware that any such general dissatisfaction has been expressed as is implied in the question of the Hon'ble Member."

"The Government of India in publishing the Reforms Scheme expressly stated that many of the details of the scheme might be found on trial to be unsatisfactory or capable of improvement, and that experience alone could show how far methods which were new to India could give the different classes and interests a measure of representation proportionate to their importance and influence, and to what extent an untried electoral machinery was suitable to the varying circumstances of the different Provinces and the numerous electorates. They added that defects would no doubt be discovered in the Regulations when they were put into operation, and that, if this proved to be the case, the law admitted of their amendment without difficulty. The late Secretary of State and the late Viceroy made similar observations."

"The Government of India have already called for reports from all Local Governments on the working of the Regulations and have invited suggestions, in the light of experience, as to any points in which they appear to call for revision. The reports of two Local Governments are still awaited. It is impossible for the Government of India at this stage to give any undertaking as to the measures which will be adopted to deal with the revision of the Regulations, should the reports of Local Governments show that it is needed: that will necessarily depend upon the nature of the revision which may be required."

The Hon'ble Mr. SACHCHIDANANDA SINHA asked :—

"(a) Will the Government be pleased to say if their attention has been drawn to the Resolutions passed by the Government Industrial Conference at Ootacamund in 1908, the third, the fourth and the fifth Indian Industrial Conferences, the third South Indian Industrial Conference and the third and



[3RD JANUARY 1911.] [Mr. Sachchidananda Sinha ; Sir T. R. Wynne.]

fourth United Provinces Industrial Conference, to the effect that existing railway rates on goods are generally excessive and affect injuriously indigenous industries in their competition with imported goods, and that Government may make an inquiry into the whole subject and obtain a reduction of the rates wherever these may be proved to be too heavy.

“(b) Is it a fact that the Governments of the United Provinces and Madras have addressed the Government of India on the subject? Have any other Provincial Governments done the same? Will the Government be pleased to lay such report on the table with the replies thereto?”

“(c) What action, if any, do the Government intend taking in the direction suggested, if none has already been taken?”

The Hon'ble SIR T. R. WYNNE replied :—

“The reply to question (a) is that copies of the Resolutions referred to have been received by the Government of India except those of the third South Indian Railway Conference, and the fourth United Provinces Industrial Conference.

“In reply to question (b) the United Provinces Government have addressed the Government of India on the subject and the correspondence will be laid on the table, and it will show that the Railway Board have impressed it on the Railways that the subject is one that deserves their very careful consideration.

“The Government of Madras have not addressed the Government of India on this subject, and there are no papers to show that any other Local Government has done so.

“The answer to question (c) is that the subject is not one that can be dealt with by an inquiry, because in the first instance Government is not prepared to agree off-hand to the statement that existing railway rates on goods of indigenous origin are generally excessive, and secondly because no general conclusion could be come to which would assist in deciding what rates should be charged for indigenous commodities as compared with the rates for imported goods, as the Railway Act does not admit of any distinction being made between these two classes of goods in the charges that may be made for their carriage.

“The Railway Act lays down that there shall be no undue preference, and this applies as much to indigenous goods desirous of ousting imported goods as to imported goods competing with indigenous. Railways under the Act cannot quote preferential rates for indigenous commodities and prohibitive rates for imported goods.

“Starting with the proposition that a producer requires certain railway rates to be charged to him to enable him to do business before a railway can agree to quote these rates, it has to determine if it can make any profit out of them and what the quotation involves in other directions, as it may affect other interests and also other producers of the same commodity in other districts.

“The only way in which such rates can be arrived at is to deal with each rate for each commodity as a separate proposition and examine carefully the many complications which arise due to the conditions under which it has to compete, the other interests affected and the value of the trade to the railway. The quotation of railway rates in fact is a very complex one, involving very many considerations, and often extremely difficult to deal with owing to conflicting interests.

“In light of these remarks the Government of India would not be justified in taking action in the direction desired, as the fixing of rates which should be sufficiently low to develop a trade is a matter concerning which the trader should, in the first instance, deal direct with the Railway Administrations concerned.

“As President of the Railway Board I feel justified, however, in saying that a railway is as anxious to secure new traffic to carry as a producer is to have it carried; and I feel sure that direct references by producers to Railway Administrations will, as a rule, secure a reduced rate for local industries if the existing

[*Sir T. B. Wynne ; Mr. Sachchidananda Sinha ; Mr. Carlyle ; Mr. Butler.*] [3RD JANUARY 1911.]

rate is too high to enable business to be done, provided the railways can make some profit out of the reduced rate desired, which also must not render them liable to a charge of undue preference.

" But it must be appreciated that it is not the duty of railways to foster an industry which cannot be profitably carried on except at a permanent loss to the railway carrying its products. In such circumstances it is obvious that the proposed industry is not one that can be carried on under ordinary commercial conditions and is of a character which would not justify the Government of India using its influence to secure for it special treatment, even if this could be done without undue preference."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to state the present stage of the discussion regarding the establishment of Agricultural Banks? What progress has been made with the scheme for the establishment of such a Bank in Bombay, which has been put forward by the Hon'ble Sir Vithaldas Thackersey and the Hon'ble Mr. Lalubhai Samaldas and is believed to have been accepted by the Secretary of State? "

The Hon'ble MR. CARLYLE replied :—

" The Government of India have from time to time had under discussion schemes for the establishment of State-aided Agricultural Banks in India, but they have not hitherto been able to accept the schemes for the establishment of such Banks which have been laid before them, and the only proposals of the kind which are now under consideration are those for the creation of the Bank in Bombay which is referred to by the Hon'ble Member. The scheme in question has not been accepted in its entirety by the Secretary of State and negotiations regarding it are still pending."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to say if an amendment of the Co-operative Credit Societies Act is under consideration? If so, when an amendment Bill may be expected, and what are the principal changes that are to be introduced in the existing Act? "

The Hon'ble MR. CARLYLE replied :—

" The Government of India have had under consideration the amendment of the Co-operative Credit Societies Act. Their proposals having been referred to the Secretary of State, I am not in a position at present to indicate the changes contemplated, but it is hoped that a Bill may be introduced and published either at the end of this month or in March next."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to say (a) whether the modified scheme for the establishment of a Technological Institute at Cawnpore, which has been submitted by the United Provinces Government, has been accepted by the Government of India and forwarded for the sanction of the Secretary of State? And (b) whether the Local Government has expressed its inability to provide for its cost, and, if so, will the Government be pleased to help it to give effect to the scheme? "

The Hon'ble MR. BUTLER replied :—

" The modified scheme for the establishment of a Technological Institute at Cawnpore, which has been submitted by the United Provinces Government, has been accepted by the Government of India, who are considering the extent to which financial aid can be given to the scheme from Imperial revenues. The Secretary of State will shortly be addressed on the subject."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to lay on the table a comparative return showing the number of raids committed in the North-West Frontier Province in the years 1909 and 1910, the approximate value of the property looted and the number of men held to ransom with a statement of their nationality as well as the number of villages raided in these years respectively? "



[3RD JANUARY 1911.] [Mr. Wood; Mr. Sachchidananda Sinha; Mr. Jenkins; Mr. Montearth; Sir Guy Fleetwood Wilson.]

The Hon'ble MR. WOOD replied :—

“The return is being compiled and will be laid on the table as soon as possible.”

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

“Since the creation of the North-West Frontier Province, were any Hindu-Mussalman riots reported in Peshawar City, before the one that took place in March last?”

The Hon'ble MR. WOOD replied :—

“The answer to the Hon'ble Member's question is in the negative.”

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

“Will the Government be pleased to state how the North-West Frontier Province Administration propose to allot the incidence of Rs. 5,000 for the maintenance of punitive police in Peshawar City for a year?”

The Hon'ble MR. WOOD replied :—

“The cost of the police post in question is Rs. 4,000 a month and not Rs. 5,000 as stated by the Hon'ble Member. The question of the allotment of the incidence of the charge is still under consideration.”

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

“(a) Has the attention of the Government been drawn to the statement appearing in some of the Punjab papers that *Afghan*—a vernacular paper published at Peshawar—is in receipt of an annual subsidy from the Local Administration?”

“(b) Is it a fact that articles have appeared in that paper calculated to embitter feelings between the Hindus and the Mussulmans?”

The Hon'ble MR. JENKINS replied :—

“The answers to the questions are as follows :—

(a) The Government of India have noticed the report alluded to. They understand that the North-West Frontier Administration subscribe for a certain number of copies of the *Afghan* newspaper.

(b) The Government of India have no information as to whether any articles in the newspaper in question have been calculated to operate in the manner suggested; but they will ask the Local Administration to look into the matter.”

The Hon'ble MR. SACHCHIDANANDA SINHA : “May I know how many copies have been subscribed for by the North-West Frontier Province Administration?”

The Hon'ble MR. JENKINS : “We have no information as to that. I believe the subsidy amounts to some Rs. 800 a year.”

The Hon'ble MR. SINHA : “My Lord, the last question which stands in my name I defer for to-day. With reference to the conversation which I had with His Excellency the Commander-in-Chief, I withdraw it for the time being.”

The Hon'ble MR. MONTEATH asked :—

“In view of the policy advocated by public bodies, will Government be pleased to state (1) if they intend to increase the actual holdings of gold in the Gold Standard Reserve, and (2) if such holdings are likely to be kept in this country?”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“I can only refer my Hon'ble friend to what I said on this subject in last year's Financial Statement. There has been no change in the position since then; and I do not at present anticipate that any addition will be made to the holding of gold in the Gold Standard Reserve or that any part of it will be kept in India.”

[Rao Bahadur R. N. Mudholkar; Sir T. R. Wynne; [3RD JANUARY 1911.]  
Mr. Robertson.]

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

"(a) Are Government aware of the complaint in certain manufacturing and trading circles that the rates for the carriage of goods on Indian railways are, in view of the circumstances of the country, excessive, and press unequally and differentially on the same articles according as they are consigned from or to coasting towns or to interprovincial destinations ?

"(b) Will Government be pleased to direct an inquiry to be made in regard to this matter, and if the complaints appear to be well founded to take steps for removing the same?"

The Hon'ble SIR T. R. WYNNE replied :—

"The Government of India do not agree that the rates for the carriage of goods on Indian Railways are, in view of the circumstances of the country, excessive. The rates which railways may charge are controlled by the maxima and minima rates fixed by the Government of India for each commodity, and railways may only make such changes as come within these limits.

"When fixing the maximum rate for any commodity Government take into consideration the value of the commodity in question and the volume of the traffic in it, and on these considerations they base their decision. The minimum rate is fixed on the basis of being a rate which will not entail traffic being carried at a loss and so avoid laying on the taxpayer the burden of paying for the loss that would result in the shape of interest charges being in excess of net revenue.

"With regard to the second part of the question, *viz.*, that rates press unequally and differentially on the same articles, according as they are consigned from or to coasting towns or to interprovincial destinations, the Government of India are not prepared to admit that there are good grounds for the complaint.

"Railways being commercial undertakings have to be worked commercially, and one of the best known principles of business is that for a large steady business you are prepared to make reductions in price.

"Traffic from and to coasting towns is, as a rule, a big traffic carried a long distance with full loads, whereas interprovincial traffic or, as it is generally termed, *local* traffic, is comparatively small in tonnage, the distance carried is generally short and consignments do not readily run to wagon loads.

"Under these conditions the cost to railways of the carriage of goods to and from coast ports is much less than it costs them to deal with local traffic, and consequently there must be a difference in the rates charged.

"At the same time I feel justified in saying that Railway Administrations are ready to consider favourably any representations that may be made to them of cases in which local rates are considered to be too high, to enable a particular business to expand, for the simple reason that it is in the railway's own interest to encourage the development of traffic.

"It may be added that in no country in the world do railways make the same charges for the carriage of articles carried under different conditions, circumstances and distances, and the steady development of the trade of India would appear to be a fair indication that the railway rates generally charged are such as trade can reasonably afford to pay.

"Taking Indian railways as a whole, the average rate at which traffic is carried is the lowest in the world, and as a further indication that the rates charged are consistent with a fair return on capital, it is interesting to note that the net return on Indian railway capital expenditure was only 4.33 in 1908 and 4.81 in 1909, working expenses comparing very favourably with those of Railways in other countries.

"For these reasons the Government of India do not think it necessary to grant the inquiry asked for."

#### INDENTURED EMIGRATION TO NATAL.

The Hon'ble MR. ROBERTSON said :— "With Your Excellency's permission I rise to make a statement on the subject of indentured emigration to Natal.

[3RD JANUARY 1911.] [*Mr. Robertson ; Mr. Gokhale.*]

“The Council will remember that in July last a Bill was passed empowering the Governor General in Council to discontinue emigration to any country to which emigration is lawful, if he has reason to believe that sufficient grounds exist for prohibiting such emigration. The Governor General in Council has had under his consideration the question of discontinuing indentured emigration to Natal, and he has arrived at the decision that emigration to that country should no longer be permitted.

“The decision has been taken in view of the unsatisfactory position which has been created by the divergence between the Indians’ and the Colonists’ standpoints and by the absence of any guarantee that Indians will be accepted as permanent citizens of the South African Union after expiration of their indentures. In all the circumstances the Governor General in Council is satisfied that emigration to Natal should be discontinued as he cannot allow the present unsatisfactory situation to be perpetuated. He therefore proposes to publish a notification on the 1st April next prohibiting indentured emigration to Natal with effect from the 1st July 1911.”

The Hon’ble MR. GOKHALE said :—“ My Lord, I am sure the Council has listened with the utmost satisfaction to the statement made by the Hon’ble Mr. Robertson, and I trust Your Excellency will permit me to express on behalf of the non-official members our sense of deep gratitude for the decision at which the Government of India have arrived in this most important matter. The announcement made today by the Hon’ble Member will evoke but one feeling throughout this country, and it will be a feeling of sincere and enthusiastic appreciation. The decision of the Government removes from the difficult question of the treatment of Indians in South Africa an important factor which was responsible for much soroness of feeling. It also does more. It furnishes to my countrymen a striking object lesson of the manner in which the Government will not hesitate to take any action that has become necessary in furtherance of our interests and for the assertion of our self-respect, even when it involves inconvenience and possible injury to the interests of a self-governing English colony. My Lord, I heartily congratulate the Government on the step which they have taken.”

#### INDIAN FACTORIES BILL.

The Hon’ble MR. ROBERTSON moved that the Bill to consolidate and amend the Law regulating labour in Factories be referred to a Select Committee consisting of the Hon’ble Mr. Clark, the Hon’ble Mr. Syed Ali Imam, the Hon’ble Mr. Graham, the Hon’ble Mr. Dadabhoy, the Hon’ble Mr. Gokhale, the Hon’ble Sir Vithaldas Thackersey, the Hon’ble Mr. Andrew, the Hon’ble Mr. Quin, the Hon’ble Mr. Gates, the Hon’ble Mr. Phillips, the Hon’ble Sir Sassoon David, the Hon’ble Mr. Macpherson, the Hon’ble Mr. Fremantle, the Hon’ble Mr. Mudholkar, the Hon’ble Mr. Birkinyre and the mover. He said :—“ I think, my Lord, that at this stage I need not take up the time of Council with any lengthy statement on this Bill, the history of which will be familiar to the greater number of Hon’ble Members present. When the late Mr. Harvey introduced this measure in July 1909, he explained in full detail the successive steps which had led up to it and the principles on which the proposed legislation was based ; and I scarcely think that I can add anything to the argument which he laid before Council with such completeness and lucidity. Since that time every opportunity has been given for the fullest criticism of the Bill. It was printed and published as soon as possible after its introduction, and has been circulated to Local Governments in order that it might be brought to the notice of owners of mills and factories throughout the country. Criticisms, comments and suggestions in considerable numbers have been received in reply, all of which have been printed and are in the hands of Hon’ble Members. The Government of India have given these suggestions their most careful consideration. Some of them they are able to adopt, and amendments with that object will be moved on behalf of Government in Select Committee. But I ought to say at once that nothing since the Bill

[*Mr. Robertson; Sir Sassoon David.*] [3RD JANUARY 1911.]

was introduced has been brought to the notice of Government which could lead them to reconsider the decisions already arrived at on important points of principle, such as the proposed restriction of hours of labour of male adults in textile factories. Those provisions of the Bill we must maintain; but it is our earnest desire and intention that, given the attainment of these essential objects, no unnecessary burden should be placed upon the industries concerned, and I can assure Hon'ble Members that with this aim in view we have examined the suggestions made to us in a sympathetic spirit and with a real wish to meet them whenever possible. We shall gladly welcome in Committee suggestions which will help us to attain this end. In selecting the names of Hon'ble Members who have been invited to serve on the Committee, we have been careful to secure a strong representation of the factory interests involved, and I am sure the Hon'ble Members in question, whatever their views on the main provisions of the Bill, will co-operate loyally with Government in their desire to save the industries concerned from any unnecessary friction and expense.

"One other point I may mention. There will be a considerable number of Government amendments to be moved in Committee, partly to meet representations made to us, partly on purely drafting matters, and we propose to have them printed and placed in the hands of Members of the Committee before it meets. Such a course will, I think, be to the convenience of the Hon'ble Members concerned, and it will certainly be a great assistance to Government if they in their turn could follow the same practice, and give as early notice as they can of any amendment they may wish to propose. I hope they may be able to meet us in this matter."

The Hon'ble SIR SASSOON DAVID said:—"My Lord, I am glad to see that the Bill has been referred to Select Committee; but I crave Your Lordship's permission to offer a few remarks on the Bill before the Council. I have very carefully considered the provisions of the Bill, which was introduced into the Council by the late Mr. Harvey, and am glad to say that I am able to give it my full support except in respect of one important proposal, namely, the proposal to restrict the hours of adult male labour by legislation.

"My Lord, I contend, in the first place, that no case whatever has been made out in favour of the proposed restrictions of the working hours of mill-hands. The report of the last Factory Commission conclusively showed that the cry of sweating in cotton-mills was unfounded, and that the operatives had not suffered in any way on account of overwork. So far as the actual state of things at the present day is concerned, there is no need for a law restricting the working hours of labourers.

"The Factory Commissioners were of opinion that there was only one class of labourers who were likely to be injuriously affected by such occasional long hours as prevailed in some Bombay factories during the exceptional days of 1905, and that was the class of persons between 14 and 17 years of age. They accordingly proposed to constitute such persons into a separate class, called 'the young persons' class, and to restrict their hours to twelve. But the Bill before us makes no distinction whatever between 'young persons' and adults. It puts them on the same footing, and extends the limitation proposed by the Commission for 'young persons' only to adults also.

"I venture to think that such an extension should be supported by weightier arguments than those by which the late Mr. Harvey supported it. It must be shown that the adults are likely to suffer to the same extent as young persons, and it must further be shown that they were powerless to protect themselves. As a matter of fact, however, we had no proof whatever of these things. The late Mr. Harvey merely observed that the creation of 'a young persons class' would involve some amount of administrative inconvenience, and that, therefore, it was decided to limit the hours of adult males also.

"My Lord, I fully agree that administrative convenience is an important consideration which the legislature should never lose sight of. But it is not

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the only nor the most important consideration that we have to keep in view, and surely nobody would say that the industrial interests of the country should be subordinated to administrative convenience. The administrative inconveniences referred to by Mr. Harvey can be avoided, and have been avoided in Great Britain, by means of a competent supervising agency such as that proposed by the late Factory Commission.

"But, my Lord, we have been told that the example of Great Britain does not apply to India, because in England labour is highly organized. The implication seems to be that if labour were not so organized, the hours of adult labourers would have been limited by direct legislation. Labour organizations in England are of much later growth than factory industries, and I am not aware that at any time previous to such organizations the hours of adult labourers were restricted by law. That, however, is by the way. If the existence of labour organizations is a reason why adult male labour is not restricted in England, cannot these organizations be left to protect women and children and young persons also? Are we to suppose that the intelligent working men of England are so utterly lost to the duties they owe to their wives and sisters and children that they would not use the power their organizations give them to protect their kith and kin as well as themselves?"

"No, my Lord, it is incorrect to say that the reason why there is no time-limit for adult operatives in England is because they have their labour organizations and do not need it. The real reason is that the direct restriction of hours of adult males would be an interference with their personal liberty, which would not be tolerated. My Lord, it is a mistake to suppose that the Indian mill-hand—at any rate the Bombay mill-hand of whom I can speak with knowledge—is a helpless tool in the hands of his employer. Unlike the English factory labourer, the Indian mill-hand is not entirely dependent on the mills. He can, and often does, turn his hands to agriculture, domestic service and other occupations when he is dissatisfied with or unable to find work in mills. Moreover, the demand for labour is so much greater than the supply that a mill which sets itself against the sentiment of its workers will soon find itself in a difficult position.

"I am in entire sympathy with Government in their laudable desire to ensure the health and well-being of the labourers in factories. All that I say is, 'Let not a principle which has been found objectionable in England be recognized in our legislation.' My Lord, I do not want to tolerate sweating. I am prepared to accord my most cordial support to any form of legislation aimed at the prevention of excessive hours, if it does not involve any restriction of the liberty of the individual adult worker. One of such forms is that suggested by the Factory Commission. There is another way of effecting the same result, which I would be glad to submit for the consideration of the Select Committee. I earnestly trust, my Lord, that Government will not insist on carrying the Bill in its present form; and I am sure that, by modifying the Bill in regard to this point, Government will have the satisfaction of achieving their great and humane object with the support and approval of all."

The Hon'ble MR. DADABHOY said:—"My Lord, I crave leave to offer a few observations on the principle of the Bill before it is referred to a Select Committee, reserving a detailed examination of the provisions when it comes up for final consideration. I have every hope, in view of the strong appeals and representations of the manufacturing public, the Select Committee will make large changes in the Bill, and will ultimately present it in a form less likely to provoke adverse criticism. I feel at the same time that a non-official Member can only hope to influence the Government policy underlying any provision of a Bill at this stage. Experience shews any substantial revision of a Bill after the Select Committee's report is impracticable.

"The minor changes proposed in the existing law, I may at once say, have my support. But as a representative of the people I must voice the popular discontent that the Bill has caused on account of its numerous drastic and unsuitable provisions. In my opinion, the Bill in certain respects is too ambitious in purpose, too comprehensive in scope, and too elastic in language. It

attempts a radical change in the present Act. I fully realise the difficulty of the Hon'ble mover of the Bill—the late Mr. Harvey, whose untimely death this Council must deeply mourn; I am also prepared to concede that it is almost impossible to frame a law the details of which will meet with universal approval; but it is certainly possible for Government to so regulate legislation by following the line of least resistance as to carry the community with it simultaneously with effecting the necessary reform. Unnecessary legislation is worse than useless. It defeats its own object by alienating public sympathy and support. The necessity for an amendment of the existing law should be clearly established and the object must be beyond cavil. The question is, does the Bill before the Council satisfy these requirements of wholesome and progressive legislation? I am afraid the answer can only be in the negative. And what is worse is that the Bill has already aroused suspicions among the people of an ignoble genesis. People unfortunately suspect that the anxiety for the protection of Lancashire interests determines and colours the policy of the Bill.

“ My Lord, I feel I would be remiss in my duty to the country in general and to my constituency in particular if I omitted to enter my emphatic protest against one of the principal features of the Bill. Hon'ble Members of Council are fully aware that public opinion distrusts it, and that there exist in the public mind misgivings about the proposed limitations on adult labour. The curtailment of the freedom of action of the citizen must always be regarded as a serious encroachment upon civic right, the gravity of which is enhanced in the present instance by the questionable method by which it is proposed to be done. A Bill like the one now before the Council, the principal aim of which is to limit the working hours of adults and children in textile factories, under ordinary circumstances might perhaps have received some measure of support from the commercial public and the non-official Members of Council; but the incidental circumstances have made the Bill highly unpopular. Apart from the fact that, rightly or wrongly, there is considerable doubt in the public mind as to the ultimate object and the probable effect of the Bill, the Government has selected a most inopportune time for the amendment of the law and for the introduction of legislative restrictions. I fully appreciate the humanitarian motives that have inspired the Bill, and no right-thinking citizen will impute ungenerous motives to Government; but it must be admitted that the Indian Government, which has imposed and maintains a countervailing excise-duty on indigenous cotton goods to propitiate Manchester, cannot reasonably hope to avoid some measure of hostile and unpleasant criticism of its action, and of misinterpretation of its solicitude for the well-being of the labouring classes.

“ But ignorant and captious criticism apart, there are serious matters for the consideration of Government. Humanitarian considerations alone should not determine Government action. There is no room for moral idealism in administration. The principle of non-interference with private contracts is a recognised canon of enlightened administration. The freedom of the capitalist and the labourer to enter into agreements which they think desirable and mutually advantageous should be respected unless they outrage the moral sense of the community. This point ought to appeal to Government.

“ The Government of India needs a very strong and unassailable case to be made out before it launches on legislation of such exceptional nature, more particularly when the underlying policy is opposed to clear and definite pronouncements of high authorities made in and out of this Council. I must recall here the assurance given in this Council by one of our former Viceroys, Lord Lansdowne, when the Factory Act of 1891 was on the tapis. ‘ We believe,’ remarked the noble Marquis, ‘ that the effect of our measure will be to place factory labour in India on a proper footing, and our Bill will be accepted here and at Home, not, as the Hon'ble Mr. Nugent would have us believe, as a mere prelude to still further restrictions, but as a settlement as final as any settlement of such a question can be.’ But, alas, the prophecy of the late Mr. Nugent has proved true, and that too within a few years of the emphatic avowal of one of the most brilliant and respected of Indian Viceroys.



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“ My Lord, I do not contend that an assurance like the one just referred to, coming through from the august head of the Government of India, should tie the hands of all succeeding Viceroy's and debar them from revising any law in the light of new experience or altered conditions; neither do I deny that the demand for limiting the hours of adult labour may be justifiable under special circumstances; but we cannot overlook the fact that in the West it is viewed as a stretch of power for any Government to arrogate to itself the duty of determining the number of hours in a day an adult labourer may work. It is conceivable that the State may under grave and exceptional circumstances regulate the conditions of employment of adult labour, but it is equally true that it is the birthright of every man to pursue his own interests in his own way. If there is one principle which is universally acknowledged and respected in all civilised countries, it is the right of the individual to fix of his own free will the hours of work. Every man is the master of his time and energy; their application must be left to be determined by individual volition. In England, State interference with adult labour is known only to a very limited extent. Operatives working in an atmosphere of bisulphide of carbon and railway employes under the Act of 1895 only are protected against heavy and continuous work at the discretion of the Board of Trade. The form which State control has taken in England is of a light, elastic, unirritating kind. If we examine the history of the protective legislation of the last sixty years, we find that it has only aimed at prohibiting the employment of children and women beyond a certain number of hours, and in the case of the former, in addition to a minimum limit of age, it imposes certain educational tests. The cardinal principle on which State interference has been justified and has throughout proceeded is that the State is bound to protect those who are not in a position to protect themselves. The obligations of the State to the working man extend so far and no further, and the working classes at Home would not permit or tolerate any interference with the conditions of employment of adult male labour. Public opinion there among the adult factory population does what it does not do in any other country—it draws a sharp and well-defined line beyond which legislative interference with the right of free contract of the employer and the employed cannot go. Wherever State interference with adult male labour has been tried or attempted beyond the above limits, it has signally failed.

“ The provision in the Bill regarding the imposition of restrictions on adult labour is not justified by the conditions of work now prevailing in this country. The Bill introduces a novel principle which has only been very recently adopted in England in the case of a special class of workmen. The Indian textile industry has not yet completely passed through its infant stage; it has yet to grow up to vigorous youth. The present depression is severe and trying. The conditions of manufacture are anything but encouraging. The Bill will have the effect of still further hampering the millowners in their already unfair and unequal competition with the foreign producer, and industrial progress will be most certainly impeded and endangered by the proposed limitation of working hours.

“ It is not even suggested that any change in the existing law is demanded by the labourers themselves, or that the circumstances are such as would make it imperative on Government to undertake it. The Hon'ble Mr. Harvey candidly admitted that, a few years ago, at the previous inquiry the operatives, in language clear and unequivocal, protested against any legislative interference. There does not appear to have been any subjective change in them during the interval. The last inquiry did not elicit any special repugnance to long hours on the part of the millhands. Besides, I do not admit that the charge of working long hours habitually and detrimentally to the physical interests of the labourers has been proved against the textile industries in India. Even the verdict of the Factory Commission on that point is neither conclusive nor definite. Their verdict is virtually the Scotch verdict of ‘ not proven.’

“ The Factory Commission of 1890, which was presided over by so competent, zealous and experienced an officer as Dr. Lethbridge, examined very minutely and with care the question of the working hours of the mills,

and it arrived at the conclusion 'that there is nothing in the conditions under which Indian operatives work which calls for any legislative restrictions as to the hours an adult male may choose to work. Nor can we conceive any conditions which can ever call for State interference in this matter.' The Commission of 1908, to which Mr. Harvey paid a just and warm tribute, also came to the decisive conclusion that it would not be justifiable to resort to a measure which found favour in very few countries, and that only under exceptional circumstances, and which would be fraught with many difficulties and would cause considerable inconvenience in practical working. That Commission very pertinently remarked that 'we do not consider that any case has been made out in favour of applying a principle which is admittedly of somewhat doubtful validity, which commands acceptance in very few countries, which is open to the gravest objections from a practical point of view, and which supplies a remedy very much more drastic than the circumstances of the case demand.'

"Dr. Nair, who took up a unique position in regard to this matter on the Commission, and whose dissenting Minute I have read with interest, invoked the authority of Adam Smith to strengthen his position, and cited the cases of France and Switzerland for precedent. It is now a matter of history that State interference as regards adult labour has completely broken down in the United States; in Germany and France it has paved the way for socialism and its attendant evils, and in Switzerland, where it was tried as far back as 1877, it has proved wholly unsuccessful. Mr. Fawcett and other authorities whose opinions are entitled to considerable weight even go the length of asserting that the power which the law assumes in the case of women is an infraction of an immutable principle of legislation, and derogates from the right of free contract involved in the right of free citizenship.

"My Lord, it behoves us then to examine the grounds on which the Government has undertaken this legislation. It is urged that the introduction of electric installation in almost all mills since 1891 has placed a strong temptation in the way of millowners and agents, that the security which the Government formerly had has entirely disappeared, and that both operatives and their employers are likely to be tempted to extend the average working day of twelve hours to an inordinate length. It is also urged that, though there is no proof that the operatives have suffered in the past by long working hours, the past and the present conditions of work in textile factories are such as are indubitably calculated to cause deterioration in the physical condition of the factory population; that both the Commission and Government are confirmed in this opinion by the noticeable absence of elderly men in textile factories, in spite of the fact that the demand for labour is much in excess of the actual supply; and that these are circumstances which impose a duty on Government by legislative direction to fix a twelve hours day to prevent overwork in mills. It is conceded that the abuse of employing operatives for excessive hours is not general, that the evils which the Government hopes to avert by parental legislation is not of a deep-rooted or chronic nature, that before and since 1905 there has not been a wanton infraction of the conventional twelve hours' rule, and that, except in a few isolated instances, the mills in India work an average of twelve hours and seven minutes per day. It is therefore more the apprehension of possible prospective delinquencies than past lapses on the part of employers of labour in textile factories that has induced Government to undertake this legislation. But this basis of legislation is wrong on principle and is not sanctioned by precedent. All legislation of a penal or prohibitive character can only be justified by the presence of chronic abuses, and when the evil is of a widespread nature and grave enough to imperil the safety of the community. Restrictive legislation, conceived though in a benevolent spirit, which seeks to fetter individual discretion with a view to prevent possible abuses, may perhaps be justified by over-prudence, but the action is capable of misconstruction. At best it is a policy of doubtful expediency, militating as it does against the salutary principle of least interference with the liberty of the people which animates enlightened administration.

"It is unfortunate, my Lord, that the isolated events of 1905 should provide ground for restricting the working hours of adult male labour by legislative



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interference ; that the exceptional history of a year of abnormal activity in one industry should be made the pivot for an indictment against the textile industries in general. I do not defend the millowners of Bombay for working excessive hours in 1905 ; neither do I commiserate with the Mill Owners' Association in their inability to enforce any rules of a restrictive character on delinquent individual proprietors and agents then. But I ask, was the abuse after all so serious, so glaring, so deep-rooted, so common and so chronic as can only be prevented by enactment of a prohibitive character ? In judging of the exceptional circumstances of that year, I ask Government to scrutinise them in the light of the history of the industry previous and subsequent to the eventful year 1904-1905. It is a matter of common knowledge that before 1904-1905 the mill industry of India had passed through a series of bad years extending over a decade. The depression during those years was disheartening and disastrous. The Indian cotton industry was suffering greatly from competition with producers of foreign goods. Most of the mills did not pay even the most modest dividend for years together. The capital debt on almost all concerns had steadily and substantially increased. Many of them were without funds to carry on their ordinary work. Several mills had to change hands, and many others were sold up by auction at one-fifth or one-sixth of the original cost. Others had gone into liquidation, and many agents and proprietors had practically become insolvent. The depression then disappeared and the sky brightened for the industry, but, alas, only for a short spell. The prosperity was ephemeral. The halcyon days hardly extended beyond a year-and-a-quarter. Then bad times came again ; and the adversity was so severe as to daunt even the stoutest of hearts. In 1907 troubles began anew, and, as it is now well-known, the years 1908 to 1910 brought in their train untold misery. The cotton industry is now again passing through a period of depression, unprecedented in the history of any trade within the memory of any living man. My Lord, I now ask, was there in 1905 no justification for work at high pressure,—was there no redeeming feature in the fact that employers and operatives in Bombay and Agra only strove by mutual compact to recoup as far as possible their exhausted resources during a brief and fugitive interval of prosperity ? I ask, further, if any other country, similarly circumstanced, would not have, under similar conditions, adopted similar methods and acted in a similar way ? Have not we before us the example of England having acted similarly ere this ? Is overtime or long hours, under market conditions peculiarly favourable, unknown in England ? If one is in need of a precedent of recent date, one has only to read the trade reports of England during the Russo-Japanese War, and particularly of the feverish activity prevailing at the time in the numerous gigantic workshops of the Iron Princes of that great country. Moreover, what justification is there for fettering all factory labour by one uniform, rigid and restrictive rule of a limited working day in a vast country like India ? It is not easy to see why Bengal, Madras or the Central Provinces should be penalised for the sins of Bombay and Agra, supposing they are grave and unpardonable. If the Government has conclusive proof of the presence of chronic abuses in one or more industrial centres, legislation in fairness cannot go beyond the local requirements of those places. Further, my Lord, has not the delinquent Bombay been contrite for its past excesses ? Has it not given satisfactory promise of future moderation ? Has not the Commission wherever it has gone received solemn assurances and definite pledges both from employers and operatives that the transgressions of 1905 will not be repeated ? Overtime means more money for the operative ; it is a popular method of eking out the wages. Legislative interference of the kind contemplated in the Bill cannot be agreeable to the mill population. The only excuse therefore for an ambitious change in the law is wanting.

“ A legitimate demand for the restriction of hours can only arise when it is widely felt that factory life under present conditions presses heavily upon the millhands and undermines their health. It is possible the proposed Bill if passed into law will be productive of a modicum of good, but if the

Government hopes that it will appreciably prolong the lives of operatives or really improve their health, I am afraid Government will be disappointed. The present conditions of work at mills are neither severe nor oppressive, regard being had to the easy habits and character of the Indian workman. An Indian operative is not capable of concentrated or continuous labour, or of prolonged and sustained effort. He is by nature not disposed to take his work seriously; he has an incurable habit of spreading the work he has to perform over a long period of time; he invariably works in an easy, careless, perfunctory manner; he must needs loiter in the midst of work; and, he, as though intuitively, makes up for prolonged hours of work by being slack during no inconsiderable portion of his routine labour. His work is done neither with strenuousness nor alacrity, and compares most unfavourably with the standard enforced in European countries. He is likewise not amenable to rules of strict discipline, and strongly resents any interference with his method of work. The employer of labour in this country is wholly at the mercy of his operatives. There is always a much larger demand for labour than the actual supply; it is the employer who competes for labour and the operative who dictates terms. This feature of Indian factory labour has impressed even the Commission, which observes that, in addition to the statutory midday interval, the worker in a textile factory spends from one-and-a-half to two hours of the actual working day in eating, smoking, bathing and sleeping. He also gets the statutory Sunday holiday in addition to several Indian holidays during the year; and many of the workmen take much longer holidays, varying from one to three months each year, in order to spend the savings in their rural homes. It was only the other day stated in the House of Commons by the Master of Elibank that 'in the East labour is not organised as it is in Britain, and is not continuous but intermittent and spasmodic.' We must distinguish between 'a steady toiler who is ready to begin work on the first beat of the engine, and a saunterer who,' according to Lord Morley, watches the minutes like a lazy schoolboy. The late Mr. Harvey was pleased to confirm in this Council what the Commission had recorded in the report, that it had been struck by the 'marked absence of elderly men in these factories,' in spite of the proved fact that the demand for labour was generally in excess of the supply. I regret that the Commission did not carry the analysis further. This phenomenon is not idiosyncratic to mill industry. If the Commission had examined the facts connected with industries other than the textile industry, it would have noticed a similar state of affairs. Elderly men are, in the first place, not common in India. According to actuarial calculation, the average of Indian life is 54 years as against 64 in the West. In the next place, it is a matter of common knowledge that an Indian operative, whatever the field of his employment, when he passes the wrong side of forty, abandons all manner of toilsome work, retires to his village to spend his days in comparative ease and is dependent on his children or other working members of his family. Again, an operative often divides his time between the pursuit of agriculture and toil in a textile factory. There is no factory population in India. Even in the Presidency-towns you will hardly find any appreciable number of operatives altogether detached from agriculture and village life and other rural occupations. The Commission is explicit on this point: 'In almost all cases his hereditary occupation is agriculture; his home is in the village from which he comes, not in the city in which he labours; his wife and family ordinarily continue to live in that village; he regularly remits a portion of his wages there; and he returns there periodically to look after his affairs, and to obtain rest after the strain of factory labour. There is yet practically no factory population, such as exists in European countries, consisting of a large number of operatives trained from their youth to one particular class of work, and dependent upon employment at that work for their livelihood.' My Lord, the day is still far distant when in this country we shall have a distinct class of factory operatives altogether detached from agricultural pursuits and rural occupations, depending exclusively upon industrial employment as a means of subsistence. The absence of elderly-millhands thus imports nothing.

"On the crucial question whether the present conditions of employment have produced physical deterioration, it may be stated that, despite the constant

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and careful attention the Commission paid to this matter, they were unable to detect any such indication among the adult operatives. The verdict of the majority of the Commission is that the evidence before them did not justify the conclusion that there had been deterioration in physique on account of excessive hours, and, in the case of non-textile factories, they considered the evidence to be conclusive against this view. This conclusion of the Commission is supported to a certain extent by statistical information, and, though its value was discounted by the drawback that vital statistics in India ordinarily do not differentiate between the general mass of workmen and those engaged in the textile industry, the Commission was in a position to compare the death-rate among factory operatives with that prevailing among the working classes generally. The comparison has revealed the important and suggestive fact that mortality among mill-hands during the seven years preceding the report was considerably smaller than that among the general operatives. Dr. Turner, who was a member of the Textile Factory Labour Committee, and whose opinion is always entitled to weight by reason of the exceptional opportunities he had of acquiring information, is decidedly of opinion that 'the factory population is not below the average of the same class as regards physique'. I cannot resist the temptation of quoting here one important passage from the note of Lieutenant-Colonel Mactaggart, who was a member of the Commission and whose valued and expert opinion constitutes in my opinion a complete answer to the unjustifiable charge of overworking the operatives. 'On the whole I must emphatically say that, in my opinion, it cannot be said with truth that the hours now worked in the Bombay factories have any injurious effect on the health of the operatives. Whether on social, moral, or political grounds it is advisable to take steps to limit the working hours for adult males in factories is another question; but my opinion, founded on what I saw and heard while a member of the Commission in the Bombay Presidency, is that there exist absolutely no real grounds, medical or otherwise, which would justify Government in directly limiting the hours of adult male labour in factories by legislative enactment.' It is clear therefore that existing conditions are not injurious to the health of the operatives, and that restrictive legislation cannot be justified on hygienic grounds. In my opinion the Commission takes its stand on uncertain, controversial and hypothetical ground when it asserts that continuous work for 14½ hours a day under conditions stated above must lead to the deterioration of the physique of the working classes and render factory work so unpopular as to make it difficult in time to obtain a labour supply commensurate with the economic and industrial needs of the country. This sort of *a priori* argument, always inconclusive and elusive from vagueness, is singularly out of place in a practical debate. Mr. Harvey indeed said something pertinent when he claimed protection for operatives in this country, devoid as they are of all organisation. It is true, my Lord, Indian operatives have no organised trade unions; but we have only to superficially scan the recent history of many industrial centres to discover that they, though not backed up by regular unions and associations, fully comprehend the methods of, and can engineer, local strikes. When they do break out they are most ungovernable; they get completely out of hand, and masters are powerless to control them. The difficulty of the employer of labour is considerably enhanced by the operatives failing to disclose the real cause of their discontent, refusing to formulate any definite demand, and often not knowing their own grievances. The time will come when organised trade unions will be in effective operation even in this country. In any case I cannot help pointing out that where labour is not organised the procedure adopted by Government for its protection by limiting the hours is not the only practical and conceivable method, or even a well-advised method.

"Mr. Harvey, in his speech in this Council, sought to justify the introduction of restrictive legislation by urging that the Factory Commission had, by providing for the direct limitation of hours in the case of young persons, sanctioned by implication the principle of direct limitation in the case of adult labour. In my humble opinion this is a forced construction—a *non sequitur*.

I think it will not be disputed that there is a sharp distinction between a recommendation limiting the hours of labour for young persons and direct legislative action for enforcing short hours upon adult operatives. If that recommendation of the Factory Commission be accepted, it may probably be that the ultimate effect of legislative protection to juvenile labour would also limit in practice the hours of adult labour, but it can only be indirectly, through its economic influence upon the industry. It is one thing to induce employers through pressure of economic forces to work short hours and quite a different thing to force adult labourers by law to stop work at a particular hour. While nobody will object to the one, the other would be viewed as interference of an irritating kind. Mr. Harvey's argument that 'the most likely way of inviting fresh restrictions is to pass measures which may fail to accomplish their professed object,' will appear unconvincing. It has an air of plausibility. The suggestion seems to be that the acceptance of the proposed measure would prevent future restrictive legislation. It is the old story. The argument is not new. It is in requisition for the justification of all repressive and restrictive measures. There is no such thing as guarantee for the future in legislation. Had the past determined the course of future legislation in a matter of this kind, we would not have heard of this Bill after Lord Lansdowne's solemn assurance. The course of events thus points to a different and contrary conclusion. It has yet to be proved that the Factory Act enacted during Lord Lansdowne's régime has failed. The shrewd observation of Sir John Hewett, one of the ablest, most experienced and far-sighted of our Provincial Governors, is much nearer the truth. 'If legislation is now undertaken to limit the working hours of adult males to twelve or thirteen hours,' said Sir John, 'it will not stop here, 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.' I therefore firmly believe that it is not possible to steer a middle course in a matter like this, and our largest margin of safety lies in altogether excluding any legislative interference with adult labour.

"My Lord, I submit fresh restrictions will not only handicap the most important industry of the country, but practically strangle it. True, Government has evinced a healthy solicitude for the production of long staple cotton, but so far its efforts have failed to have much stimulating effect upon the manufacturing industry and the cotton industry in general. Moreover, Government action in the past, doubtless well-meant, has, far from being encouraging, proved prejudicial to the interests of the Indian manufacturer. The Closure of the Mints to the free coinage of silver, followed by a wholly indefensible Countervailing Excise-duty of 3½ per cent., has seriously affected the export of the Indian yarn and cloth, and *pro tanto* interfered with the millowners' profits. The recent heavy tax on silver, which is equivalent to a three per cent. bounty to China and Japan, has further penalised Indian yarn in the Far East. Are we on the top of all this to be burdened with the further disability of not being able to deal with our indigenous labour? My Lord, it is well-known that the Factory Commission would not have been appointed and this legislation would never have been thought of but for the exaggerated and sensational, albeit honest, reports in a leading journal of Bombay; but the charges of overwork and physical deterioration of the operatives have now been authoritatively contradicted by the Factory Commission. My Lord, Indian manufacturers have been the most constant, devoted and powerful supporters of Government in times of trouble. They have, as a class, scrupulously held themselves aloof from all opposition to Government. It is this class of loyal supporters who claim the protection of Government; and will Government withhold from them the sympathetic consideration to which they are entitled; will Government refuse the help which they so urgently need? I hope not. I pray not. I do not believe that, on a proper presentment of the facts, Government will not listen to our appeal. Malicious aspersions and criticisms notwithstanding, Government is righteous in its intention and aims. More than this, it is actuated by sympathy and a genuine desire to advance the prosperity of the country. With all this sympathy, with all the kindness characteristic of

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British Indian rule, will Government, from sentimental considerations, from a vague fear, fetter and embarrass further an industry that has done in the past and promises to do in the future so much for the material advancement of the country? Legislation of this restrictive nature, be it noted, while doing very little good to the operatives, will seriously handicap the textile industry. I appeal to Your Excellency to yet prevent this unhappy result by removing from the Bill the restrictive provisions regarding adult labour."

The Hon'ble Mr. GRAHAM said :—" My Lord, as representing the Calcutta Chamber of Commerce, I feel that I should fail in my duty if I did not on this occasion take the opportunity of, as shortly as possible, pressing the views of that Chamber. While in no way wishing to oppose the Bill, I should like to emphasise one or two points which have already been brought to the notice of Government in a letter from the Chamber. In the first place I think it is obvious that this Bill goes very much further than any recommendations of the Factory Labour Commission; and it is also, I think, obvious that it is very much in the nature of an experiment. Indian labour is, I feel, not quite the best field for such experiments, seeing that very few countries even in Europe have adopted any legislation of this sort. Keeping these points in view, I would ask that in Select Committee the Government would be ready to meet us as far as possible in any alterations and amendments which those who have been put on the Select Committee as experts in this direction may suggest, and I am perfectly certain that any such alterations and amendments will go far to the ultimate smooth working of the Bill if they can be adopted.

" It was with much regret that I heard what the Hon'ble Mr. Robertson said just now to the effect that there would be no going back on the direct limitation of adult labour, and this in spite of the grave apprehensions expressed very strongly by the Chamber of Commerce and other bodies on this feature of the Act. We had hoped that in this direction something might have been done to meet us. But at the same time I was very glad to hear him say that the Government were proposing many amendments which would go far to meet the views expressed as regards other details."

The Hon'ble Mr. MUDHOLKAR said :—" My Lord, the assurances which Mr. Robertson has given to us render many of the observations which I wished to make in regard to this Bill unnecessary at this stage of our proceedings. I am glad that Government consider that, in view of the various criticisms and suggestions which have come from those who take interest in this question, they are prepared to make important alterations in the provisions as drafted originally. But there was one portion of his speech which caused me disappointment similar to that expressed by the Hon'ble Mr. Graham, namely, that there will be no going back on the main principle and feature of this Bill. I hope that, in spite of what the Hon'ble Member in charge of the Bill has stated, he would be ready to consider what those who have experience in the employment of labour in different parts of the country have to urge in regard to this matter, and that he would not say that in regard to the main and distinctive feature of this Bill 'nothing that you might suggest from your experience would be at all considered.' We hope that even in regard to that matter, I mean the question of restricting the hours of labour in regard to adult males, he would have a free mind and would re-consider even that question of principle. My Lord, it is very necessary in this assembly, even though we feel that the Bill is one which has come, as it were, as a mandate from a power the potency of which cannot be questioned here, even though it comes with this mandate, it is necessary for those whose interests are involved to enter their emphatic protest against attempts like this. My Lord, the Bill is not one which was brought forward by the Government of India of their own accord, or suggested by any Local Government after conviction of its necessity. It was not demanded by the labourers; it was not demanded by any of the interests concerned in the country. It came from persons who, not to mince words, are our rivals in manufacture and in trade, and it is those rivals who have been working for this legislation. My Lord, this might appear blunt speaking. But I believe in this matter it is best to state things frankly. This is the view taken by those who are interested in

the trade and also by the people generally, and it is a thing which I do beg Government to take into consideration. The agitation which resulted in the appointment of a Commission and the framing of this Bill, that agitation began after the boom of 1904-1906 in the cotton trade, the temporary prosperity of the textile industry which resulted in a small addition to our spindles and our looms, that roused the fears of those who were interested in the importation to India of an ever-growing quantity of textiles. They were afraid that the Indian textile trade was likely to be snatched away from them. And then was raised the cry of the overworking of the mill-hands. My Lord, in regard to that I would not ask this Council to take any assurance from those who are interested, but to take the statements given by that impartial body, the Factory Commission, presided over by one of the most experienced officers of Government, a gentleman who now holds a seat on the Council of the Governor of Bombay. There it was pointed out that so far as industries other than the textile were concerned, there was absolutely no ground whatever for saying that there were any excessive hours. It is only in regard to the textile industry it was stated that there were in certain parts of the country, what was called, excessive hours. But these excessive hours, he it remembered, my Lord, meant only the working of the factories; they did not signify that the operatives themselves had actually to work for longer hours than 12. It was found that in those factories, which worked for 14 or 15 hours, the number of persons employed was in excess of those who were actually at work at any one time. What they found was that all the operatives who were on the list, were not actually working; only some of them were so working. Others, as is the case in all these factories, took leave or went out for purposes of their own and stayed away for half an hour at a time, and they did this more than once, the total periods of absence often aggregating to one hour, or even one and a half hours, and others had to be kept to take their places. This is what was found by the Factory Commission, both by their personal observation and what was stated to them by witnesses. Then it was also found that the quantity of work which was turned out, in other words, the intensity of labour in India, is nothing as compared to what exists in England. In India, the Factory Commission pointed out, it takes 2½ operatives to do the work of one English operative. That shows how hard, how great, is the strain in England and how comparatively milder is the strain on the operatives in India.

“One thing which I would beg the Council to consider is this, that in all these matters, as the Factory Commission pointed out, what has to be borne in mind is what is demanded by the interests of this country or in other words the interests both of the industry and the interests of the operatives themselves, and we should not allow ourselves to be carried away by what exists in other countries and draw false analogies from what exists in England or Europe or elsewhere. My Lord, those who ask for restriction of hours will find afterwards that the operatives do not thank them for what has happened. They speak of excessive hours in Bombay in 1906. When the excessive hours came to be curtailed, the reduction meant also a reduction in wages, and the operatives themselves were among those who complained of the restriction of hours. In seasonal factories of which I have considerable experience, whenever there is any excess working, the operatives, instead of grumbling, rather welcome these additional hours, because the additional hours mean an addition to their wages, and if factories working 12 hours work 15 hours, the operatives welcome these three hours because that gives them an addition of something like 25 per cent. to their wages. So the operatives themselves, my Lord, do not ask for this restriction. I do not mean to say that humanitarian considerations should be left aside. And in order not to be misunderstood I wish to guard myself in regard to the necessity of protecting women and children as they are unable to protect themselves. In the case of children the State occupies the position of being its guardian. Even the *patria potestas* has to be laid aside in the case of children; much more than has the employer's power to be curtailed when children are employed. Similarly in the case of women who do not possess the same



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independence, the same control over themselves as men do, a considerable amount of care from the State is required. These things were admitted so far back as 1881 and 1891, and there is no disposition whatsoever in any responsible quarters to deny the necessity of protecting women and children. But it is this new principle which is sought to be introduced in India against which it is necessary to make an emphatic protest, that is, the curtailment of the freedom of persons quite capable of taking care of their own interests. If there had been any necessity, any reason shown, why factory hands ought to be specially protected, if it had been shown that advantage was taken of the ignorance or the necessities of these people, to impose upon them conditions which do not obtain in other trades, then a case might possibly have been made out. But, my Lord, unless we are prepared in this Council to admit communistic principles and to say that here we shall have nothing but equal division of profits between capital and labour, and that the hours of labour in every sphere of life, amongst domestic servants, in agriculture and in all other industries, have to be brought under the operation of the principle, I do not see with what consistency we can say that hours of factory labour alone shall be regulated by legislation. Unless we are prepared to say that this principle is to be carried to other spheres of life also, I submit, my Lord, it would not be proper for the legislature to say that this rule of maximum hours of labour can be laid down with regard to factories. It is, as I submit, my Lord, first of all an interference with the freedom of contract, and secondly it is selecting a special sphere of life for special legislation of an onerous kind and placing on factory owners responsibilities and heavy burdens which do not exist in the case of other trades. This is a matter in regard to which I ask Government to keep a free mind and to consider whether it is necessary to have this kind of restriction prescribed for adult male labour in factories. There are several matters more or less of detail, and in regard to them I say nothing at present. Only in regard to this distinctive feature of the Bill, it becomes necessary to submit to this Council the protest of the Province which I represent and which possesses nearly 330 factories. It is necessary to enter our protest against this interference with adult male labour and with the relations proposed to be established between them and the factory owners."

The Hon'ble SIR VITHALDAS D. THACKERSEY said :—" My Lord, I had the honour of representing the Bombay Chamber of Commerce and the Bombay Mill-Owners' Association on the last Factory Commission. I signed the report of the Factory Commission and endorsed almost everything that was said by that Commission ; so that it cannot be said that, when I am speaking here, I am speaking on behalf of the employers of labour, because there is much in the Factory Commission's report in favour of the employés also. I may say at once that I would not oppose the restriction of the hours of adult labourers if it can be shown that it is necessary and that the adults have either suffered in health, or that they are not able to protect themselves, or that there is no other way by which we can meet any possible sweating in the future than the one method adopted by Government in the Bill. I hope that, after the statesmanlike declaration made by Your Excellency that we should work here in a spirit of mutual concession, the statement made by my friend the Hon'ble Mr. Robertson that, so far as the principle was concerned, Government had decided that it should be carried out, is not meant to be final. Perhaps that is the opinion which is at present held by the Government of India, and when we consider in detail the sections of the Bill the Government of India may choose to change their opinion.

"Now, my Lord, let us ask what is the principle to which the Government of India wish to adhere? Is it that there should be adult restriction, or is it that Government should not allow in future any sweating of the workpeople? I believe the object of Government is the latter and not the principle that there should be direct restriction of the working hours of adults. Now, so far as that is concerned, I think that those who are connected with factories will gladly co-operate in bringing about the result that Government have

in view. But I am opposed to the direct restriction of the hours of adults, because I feel—and there are many others who feel in the same way—that it will create the greatest inconvenience possible to the industrial communities, on occasions when a little overtime is necessary and when it will hamper the industry not to be allowed to do this extra work. That view is taken by the Factory Commission in paragraph 47 of their Report. Paragraph 47 of the report says—

‘We are strongly opposed to any direct limitation of adult working hours, because we consider that there is no necessity for the adoption of this drastic course, because we are convinced that it would cause the greatest inconvenience to existing industries, most of which have never worked long hours, and because we think that such a measure would seriously hamper the growth of industrial enterprise.’

“Now, my Lord, after such a declaration by the Factory Commission is it right that we should go with a light heart and do just the opposite of what the Factory Commission recommended? The Factory Commission, as we know, was the most representative Commission ever appointed by the Government of India. It represented the several trades and industries. On the Commission we had as Chairman the Hon’ble Mr. Morison, than whom it would be difficult to find an officer more conscientious or who had greater sympathy with the raiyats from whom the millhands are generally recruited. We had also the assistance on the Factory Commission of Mr. Beaumont, who is the Chief Inspector of Factories in England. I trust Your Lordship will agree that the recommendations of such a Commission ought to carry the greatest weight with this Council and with the Government of India. The Commission recommended the creation of a ‘young persons’ class between the ages of 14 and 17 and the limitation of hours of their work to 12; and they were of opinion, and I do sincerely believe that they were right in thinking, that such limitation would bring down the hours of work in textile factories to 12. I mean the economical working of the mill. It was stated by the late Mr. Harvey, whose sad death we all deplore, that the Commission had suggested

his as an indirect restriction in order chiefly that the hours of adult labourers should be restricted to 12. Now I was on the Commission, and I can say on behalf of the Commission that this is incorrect. We went step by step and we found that the restriction of the hours of young persons was necessary on its own merits. That is my point, and it was pointed out clearly by the Factory Commission in their Report.

“Then, my Lord, about the independence of the factory employées, much has been said here and I will not detain the Council on that head. But as regards their health there are very interesting statistics given by Dr. Turner, statistics compiled during 7 years which show that the death-rate among the general labourers of Bombay was 31·58 while the death-rate amongst the factory operatives was 18·45. And Dr. Turner in his evidence pointed out that this was because the conditions of mill labour were much better: the men are better fed, better clothed and better housed. We have also the statistics of the death-rates in the Ratnagiri District, from which the mill-hands come, and we find that that district has the lowest death-rate in the whole Presidency.

“My Lord, it was said by the late Mr. Harvey that the creation of a ‘young persons’ class would entail administrative inconvenience. We know that there is a class of ‘young persons’ in England and no one has ever suggested that administrative convenience should reign supreme and that no regard should be paid to the inconvenience caused to factory owners by the direct restriction of the hours of adult labour.

“Well, my Lord, I think that the best plan for this Council would be to accept in  *toto*  the recommendations of the Factory Commission, and if the object that we have in view is not attained it would be quite easy for Government to come up next year and say: ‘Here we accepted the co-operation of the factory owners, we accepted your own suggestion, we accepted the Report of the Factory Commission, but the object has not been served. Well we will have direct restriction of adults.’ That will be the proper time, my Lord, when the Government can justly dictate their terms. If, after all, there is a doubt about the effects of the creation of a ‘young persons’ class, then there is another way of dealing with the question, and that is what has been proposed by the Bombay



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Chamber of Commerce, *viz.*, that in section 21 it might be provided that after 12 hours' work there should be a compulsory stoppage, I mean an interval of rest for the next 2 or 3 hours. For example, a factory starting at 6 o'clock will have to give half an hour's interval at 12 under the Bill. Re-starting at 12-30, it will have to stop at 6 o'clock, and, according to this suggestion, the hands must be given an interval of 3 hours so that they cannot begin work again before 9 p.m. It is absolutely impossible to expect the hands to come out at 9 o'clock at night to re-start the mill for the factory owner. There are other ways of dealing with the question if Government is not convinced of the efficacy of the Factory Commission's suggestion, and these I will place before the Select Committee.

"Then, my Lord, there is one other important matter which I should like to bring before this Council, namely, the question of working daylight hours. A passage from Lord Lansdowne's speech has been quoted by previous speakers, but since those times the only change that has taken place in the conditions of factory labour is the installation of the electric light, as the late Mr. Harvey admitted. Mr. Harvey said that the conditions which prevailed in 1891 had been radically altered and that Government should, therefore, interfere in the matter. If any one studies the Report of the Factory Commission he will find that out of 224 cotton mills in India less than 100 are fitted with electric lights. Out of those 100, 25 or 30 only have worked excessive hours. Now, for the sake of these 25 or 30 mills we propose that all should be penalised. The mills in the Central Provinces have no electric lights, and the mills in the Madras Presidency also have no electric lights. They work daylight hours: they are not working excessive hours. To them the Government says under this Bill: 'Some people in Bombay have sinned, therefore we shall introduce a regular 12 hours' Bill. We cannot tolerate daylight hours although it is liked by the hands. If the finances of the mill do not permit of electric light installation, do not work for longer hours. You shall not work more than 12 hours when the days are long.' That is the position which we create by this direct restriction. We tell everyone in the country that they must put in electric lights, and work 12 hours only.

"My Lord, that is all that I wish to say on this Bill, and I hope, as I have said at the beginning of my speech, that a spirit of mutual concession will characterise our proceedings and that Government will rather aim at preventing sweating than at the restriction of the hours of adult labourers."

The Hon'ble MR. MONTEATH said:—"My Lord, the Bombay Chamber of Commerce have welcomed the inquiries of the Factories Commission and have in general supported the proposals. The Chamber expressed itself entirely at one with the Commission as to the necessity of restricting the hours of labour, but as a matter of principle objected to the hours of adult labour being restricted by direct legislation. As indicated by the Hon'ble Sir Vithaldas Thackersey, the Chamber has suggested that the object desired can be secured by adding a clause to the proposed Act as follows:—

'Provided that in the case of the textile factories in which a system of employment in shifts approved by the local inspector is not in force, there shall be after the factory has run twelve hours, excluding stoppages, under this section, an entire stoppage of all work for not less than one hour in cases where the previous stoppages aggregate to not less than one hour, and not less than one hour and a half in cases in which there has been a stoppage of half an hour only.'

The Hon'ble MR. ROBERTSON:—"My Lord, in my opening statement I referred to the very complete exposition of the policy of Government in connection with this Bill which was made by the late Mr. Harvey when he introduced it, and I also said that it was our earnest desire that, provided this policy is maintained, no unnecessary restrictions should be placed on the mill industry in India. That policy has been criticised by certain of the Hon'ble Members who have spoken, and it will be necessary for me to take up the time of the Council for a few minutes to recapitulate the grounds on which it is based.

"The Hon'ble Mr. Dadabhoy has referred to the debates which took place in this Council when the existing Act was passed in 1891, when the hope was expressed that further legislation of a restrictive nature would not be required. The change which came over the employment of labour in factories by the subsequent introduction of electric light—in Bombay City 60 out of 85 mills have electric light installations—had, however, frustrated that hope, and has led to a state of affairs which has given the Government much anxious consideration.

"The question of the hours worked in textile factories came specially into prominence in the year 1906. The previous year had been a year of great prosperity to cotton manufacturers in India, and in the Bombay Presidency the boom had resulted in operatives being worked for very long hours with only the prescribed interval of half an hour for rest. The matter attracted public attention and an inquiry was set on foot by the Government of India into the facts. Eventually an experienced Factory Inspector (Sir Hamilton Frere-Smith) was sent out from England to investigate the conditions existing. With him were associated two medical officers of Indian experience. The report submitted by this Committee strongly confirmed the abuses which were alleged and which were found by the Committee to exist, and concluded with the recommendation that legislative action should be taken by Government to limit the working hours of adult males in factories. The Government of India had, however, given a pledge that no such action would be taken until a representative Commission had examined carefully into the whole subject. This Commission was appointed in the year 1907, and their report was submitted to Government in 1908. The Commission found that excessive hours were habitually worked in textile factories in many parts of India, more especially in cotton-mills in Western and in some localities of Northern India, and in the weaving department of jute-mills in Bengal. On this point I join issue with the Hon'ble Mr. Dadabhoy, who seems to consider that the Bombay scandal of 1905 is still the only text which Government have before them. The Commission made a proposal by which they trusted that a 12 hours working day would come to be adopted, and throughout their report they made it quite evident that this was the object they had in view. The report was circulated to Local Governments for opinion, and it was particularly enjoined that the views of persons connected with the mill industry should be obtained regarding their recommendations. The whole of the opinions thus received were very carefully considered by the Government of India in 1909, and the decision was come to to legislate for the restriction of the working hours of adult males in textile factories.

"I have given the above brief resumé in order to show the deliberation which has been bestowed upon this important question. As was explained by the late Mr. Harvey, the Government of India were unable to accept the recommendation of the Factory Commission that an indirect method should be adopted for obtaining a limit to the working hours of factories. The Commission had proposed the creation of a class of 'young persons' between the ages of 14 and 17 whose working hours should be defined. The hope was time and again expressed by the Commission in their Report that the creation of such a class of operatives with limited hours of working would automatically bring about a general 12 hours working day. It was only when after exhaustive examination the opinion thus expressed was found to be insufficient to attain the desired result that the Government of India embarked upon the legislation which is now before this Council.

"The arguments which have been adduced against the Bill resolve themselves into the following: "The proposal to limit the hours of adult males in textile factories is unnecessary and uncalled for; it is a serious interference with the rights of adult male labour and an unjustifiable restriction of rights over property. It is further argued that the present is an unsuitable time for undertaking an experiment in legislation of the nature proposed, as the mill industries are in a depressed condition. I shall briefly deal with these arguments.

"I should like in the first place to read three extracts from the Report of the Factory Commission, a report which was signed, as he himself has

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remarked, by the Hon'ble Sir Vithaldas Thackersey. 'In our opinion,' say the Factory Commission, 'no further argument is necessary to prove that such a condition of affairs, *i.e.*, the state of affairs that obtained in Bombay in 1905-06, and which the Commission found to be still prevalent in many parts of the country, 'must inevitably lead to the deterioration of the workers. It must also render the factory work so unpopular that the labour supply necessary to the adequate development of the industrial resources of the country will not be forthcoming, and the abuse is of so grave a character and so opposed to all humanitarian considerations and so fraught with serious consequences both to the industrial population and to Indian industry that the Government would, in our opinion, be justified in taking any steps which experience might show to be necessary in order to prevent it from continuing or recurring.' And again, 'we consider that it is the duty of Government on both economic and humanitarian grounds to prevent the continuance or recurrence of that system.' The Commission further wrote: 'Had this effective alternative', *i.e.*, the alternative of the creation of a 'young persons class', 'not been available, we are of opinion that direct limitation of the working hours of adults would then have been not only justifiable but necessary in order to prevent abuses which the Government of India could not upon economic and humanitarian grounds permit to continue or recur.' These are strong words, and Government would, I submit, have been found wanting had they failed to act upon the warning which was thus conveyed.

"I may here for one moment say a word as to the reasons which led Government to abandon the alternative of the Commission for the creation of a 'young persons' class which would bring about the limitation of the working hours of adults in textile factories. The Commission described their alternative as 'effective' in the last extract which I have just read. But in another passage of their report it appears to me that they themselves had apparently begun to doubt its effectiveness, when they expressed themselves opposed to direct limitation of the hours of labour, until all other restrictive measures of a practicable character had been tried and had been proved inadequate. On the report being circulated, a strong body of opinion was received that the result anticipated by the Commission would not follow on the recommendation which they made. The Governments of Bombay and the United Provinces expressed the gravest doubts on the success of the Commission's proposals. Some of the other Local Governments considered that failure was certain to ensue. And the opinion was freely expressed that it would be most undesirable to adopt legislation the failure of which to secure its main object would be proved in a few years. Numerous opinions were also received from persons interested in the mill industry which showed that the intention of the Commission would be frustrated. The Bombay Chamber of Commerce held this view, and I may quote the opinion which was given by the Hon'ble Mr. Mudholkar on this particular subject: 'In the event of the creation of a class of 'young persons' he had no intention of stopping his mill at the end of their hours, but would work the mill with adult labour for an extra hour.' That is, in the sultry climate of Berar, the Hon'ble gentleman considered that a man could be worked inside a mill for 13 hours out of the 24 for six days a week. The failure of the Commission's proposals being thus demonstrated, the Government of India had but one alternative left, to proceed by the method of direct restriction of the working hours in factories. They considered it both necessary and imperative that the dangers which the Commission foreshadowed should not be allowed to arise.

"But it is said that the measure involves uncalled-for interference with the rights of the worker to take his own working time. All that I need say about this is that the workers themselves have in general expressed the desire that some definite restriction should be placed on their working hours, this being an object which they cannot obtain by their own action as would be the case in countries more advanced. In more than one place in the Commission's report, reference is made to this matter. I need only quote one instance. 'We find them,' say the Commission, 'with few exceptions strongly opposed to the practice of working excessive hours and in favour of interference by Government to

prevent it.' A high authority on the subject told me recently, when discussing this question of the preference of the workers: 'You go to one of these mills, which work their people like this, late one evening and see the workpeoples' faces. You will not need to ask questions about what the workpeople want; their weary looks will tell you this.' We are further told that this proposal to fix the hours during which men can work is an innovation for which there is no precedent. In England organization of labour prevents the workmen being overworked, but as the Factory Commission at the outset of their report have remarked, we cannot apply the practice of England to this country. And on the general question it may be permissible to quote Professor Jevons, who, in his work *State relation to Labour*, speaks of the matter thus:—

'No one would propose to interfere with the workman labouring in his own private shop or dwelling. There the adult can work as he likes, but where a large number of men are employed in a factory there is not the same individual liberty. All must conform to the utterances of the majority or the will of the employers or the customs of the trade. I see nothing therefore to forbid the State from interfering in the matter if it could be clearly shown that the existing customs are injurious to health and that there is no other probable remedy. Neither principle, experience nor precedent in other cases of legislation prevents us from contemplating the idea of State interference in such matters.'

"In India we are convinced that there is no other probable remedy for the evil which we are now discussing save State interference as proposed in the present Bill. The Hon'ble Mr. Dadabhoj has just admitted that the State must intervene in the interests of those who cannot protect themselves, and we hold that it has been abundantly shown that the Indian factory labourer falls within the latter category.

"It has also been argued that this measure is an unjustifiable interference with the rights of the mill-owners. We do not believe that the mill industry will be adversely affected by the measure which we propose, but in any case we could not allow the argument to stand in view of the graver considerations involved in the humanitarian and economic issues on which so much importance has been laid by the Factory Commission in the extracts which I have already quoted. We know that many mill-owners are prepared to accept the twelve-hours' limit as a sound economic measure since it will protect those who desire to treat their operatives humanely from the unfair competition of those whose desire for gain blinds them to the wastage of labour that is going on, even if they do not discern it. When the Bombay Mill-owners' Association in 1905 themselves proposed a twelve hours' working day, are we to believe that they thought it was going to do them harm? The proposal could not be carried into effect as certain individual mill-owners failed to act up to the standard which was set. We think it is but reasonable that a means should be found of securing the mill industry against what can only be described as such unfair competition, and, as I shall presently show, we do not believe that the restriction which we propose to introduce will have the effect of decreasing the value of the labour in the mills throughout the country.

"The Factory Commission have devoted a special chapter of their report to the effect which the reduction of the working hours of adult males to twelve will have upon the production of the mill industry. In their report they discussed the information supplied to them by four mills—the Buckingham Mills in Madras, the Cawnpore Cotton Mills and the Elgin Mills in Cawnpore, and the Empress Mills in Nagpur—which have made experiments in this direction. In two cases only was the experiment continued for a sufficiently long period to give results of definite value, and in these two cases the verdict of the Commission, after carefully considering the conditions, is that the production in a twelve-hour day exceeds or equals the production in a fifteen or thirteen-hour day. They further say that their observations have satisfied them that the Indian operative is more adaptable than the employers of labour in India have hitherto believed. If this be the case, the argument of undue interference with the rights of property becomes of little moment.

"I would ask the Hon'ble Members who have criticised the principle of this measure, what chance there is of a steady class of mill operatives being

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built up, if conditions such as the Factory Commission found to exist are not once and for all rendered impossible. The Commission have remarked upon the shifty nature of the factory workers in places where excessive hours are worked. And as time goes on, as other industries develop, it may be expected that mills will find an increasing difficulty in conserving their labour force, unless factory life is rendered attractive. Surely it is not to the disadvantage of the mill industry that Government should step in to do what far-seeing factory owners themselves admit to be imperative for the ultimate success of the industry, and that the foundation should be laid for the building up of a highly trained operative class, by the work of whose hands the manufacturing wealth of the country will increase.

“As to the present being an unfavourable time for the introduction of this measure, I may point out that, in the first place, the Bill, if passed into law, will not become operative until after a stated period of time, and, in the second, surely it stands to reason that a period when the mills in their own interests are working short time is a suitable opportunity for the introduction of a measure such as is proposed. Be that as it may, Government cannot depart from the principle involved in this Bill. As I have already said, this principle has been adopted after much deliberation and inquiry, and it has been accepted by many persons in the mill industry as a sound and beneficent measure.

“I may perhaps be allowed to mention, before I conclude, a couple of instances in this connection. At the Buckingham Mills in Madras, which I visited last September, I was told by the manager that the Company entirely approved of the measure; only in one detail, relating to cleaning of the machinery on Sundays, would it make any difference in the present practice of the mill. The Empress Mills at Nagpur have been described by a very high authority, Sir John Hewett, as the model of what an Indian mill ought to be. They are managed by Khan Bahadur Bezanji Dadabhoj, whose evidence on the subject of the working hours of mills is deserving of the greatest weight. The Khan Bahadur would even reduce the working hours of the day below the twelve hours' limit proposed in the Bill. He holds that a legally restricted working day of eleven hours, if adopted, would ultimately be found to be the best arrangement alike for masters and men on social, humanitarian and economic grounds. When these opinions are held by the managers of flourishing institutions such as I have mentioned, Government can surely say that they are justified in holding to this measure as one which should be placed upon the Statute-book.”

The motion was put and agreed to.

#### INDIAN PATENTS AND DESIGNS BILL.

The Hon'ble MR. ROBERTSON moved that the Indian Patents and Designs Bill be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Graham, the Hon'ble Mr. Subba Rao, the Hon'ble Sir Vithaldas Thackersey, the Hon'ble Mr. Macpherson, the Hon'ble Mr. Mudholkar, the Hon'ble Mr. Graves, and the mover. He said:—“When I introduced this Bill in Council in March last, I explained its main provisions and the reasons for its introduction in some detail, and I need not repeat them now. I have only to say that the Bill which was then circulated for opinion has been received with general and marked approval, and that the procedure which it lays down for the grant of a patent is considered to be a great improvement on the existing law. Such criticisms as have been received are almost all directed to points of minor detail, which it is unnecessary for me to mention at this stage. These small points will all be duly considered in Select Committee.

“Of the changes of principle which the Bill introduces, there are only two that have been the subject of any important comment. In the first place a desire has been expressed in some quarters for the introduction of the

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sections of the English law which allow a provisional specification to be filed anterior to the complete specification of an invention. I explained in March last the disadvantages in this procedure. In actual practice the final specification has to be substantially identical with the original description of the invention, and the necessity of preparing two separate documents describing an invention causes considerable harassment both to the inventor and to the Patent Office, and is liable to cause trouble should proceedings be subsequently instituted before the Courts. The one advantage of a provisional specification is that it sometimes enables the inventor to develop his invention in the interval between the provisional and the complete specification. But it is considered that this is completely outweighed by the disadvantages to which I have alluded. I believe that except in England and some of the Colonies a provisional specification is not allowed, and I understand that even in England it is disliked in many quarters, and statistics seem to show that its use is steadily diminishing in comparison with the complete specification filed in the first instance. I may at the same time point out that it is always open to an inventor to amend his application, or to drop his first application and file a second, at very small cost to himself.

"The second point to which I would briefly refer relates to the provision for compulsory licenses. It has again been suggested in some quarters that the provision in the English Act which allows the revocation of a patent on the ground that the patented article is manufactured exclusively or mainly outside the United Kingdom should be introduced in the Indian law. Our principal authorities, however, are agreed that the country is not ripe for a measure of this nature. I may mention that the provisions of section 27 of the English Act have only been put into effect to a very limited extent, and that the expected advantages of the new procedure have been inconsiderable. This being the case we do not propose to make any change in the Bill in the direction indicated. I may add that we have provided in the Bill a cheap and easy means of compelling a patentee to grant licenses to work his invention, and it is considered that this procedure is sufficient."

The Hon'ble MR. SUBBA RAO said:—"My Lord, I may be permitted at the outset to say that the present Bill is a distinct improvement on the Act now in force. Since 1888 it has been found that the present Act handicaps the inventor and does not effectually protect the public, and that the procedure laid down in it is in many points somewhat cumbrous and out of date. I am glad, therefore, that legislation on the subject has been taken in hand, and that it has been adapted as far as possible to the legislation in the advanced countries of the West. I may, however, refer to two points of principle in connection with this measure. One of them has been touched upon by the Hon'ble Member in charge of the Bill, and that is whether persons who take out a patent should be permitted to manufacture articles abroad and import them freely into this country, simply because they have secured a patent here, or whether they should be required to work the patent exclusively or mainly in this country. This is an important question which has a great bearing on the future prosperity of this country. It is estimated that in the United Kingdom, where the new law requiring the patent to be worked in that country has been in force for the last three years, nearly, if not more than, a million sterling has been invested in land, plant, and buildings. British manufacturers have been enabled by this provision to secure licenses from foreign patentees on equitable and reasonable terms. I submit that a similar provision in the present Bill would secure similar advantages to this country. No doubt conditions here are different from those prevailing in England; but when we consider that our industrial position is rather at a low ebb, such a provision will be of immense advantage to India. In fact, I submit that it would give an impetus to the industries and manufactures of this country and that it would make it easy for Indian manufacturers to obtain licenses for patents now proposed to be worked in foreign countries. I, therefore, venture to submit that this provision is imperatively necessary for this country.

"The second point I wish to refer to is the amount of work which is thrown on the Governor General in Council by this Bill according to which various



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questions will have to go before that body and the Governor General in Council has to sit in appeal against all decisions of the Comptroller. There are one or two ways in which the question may be looked at. It is no doubt a very high privilege, a very high honour, conferred upon an applicant or appellant under this Act that his case, apparently not one of much importance, is to be tried by so august a tribunal as the Governor General in Council. At the same time I have great doubts whether this tribunal of the Governor General and the Executive Members of his Council is the best tribunal to dispose of the questions that arise under the Bill and whether it is worth the while of the Governor General in Council to devote any time to the adjudication of such matters. In other countries no doubt such questions as these are left, for instance in England, to the Law Officer or the High Court, and I do not see why jurisdiction under this Bill should not be given to our High Courts. No doubt in this country the Executive generally takes upon itself and is rather too ready to take upon itself the functions of the Judiciary. But I am afraid that the Governor General in Council is not the best tribunal to adjudicate on questions that arise under the Bill. I venture to suggest, therefore, that the several questions arising out of this Bill should be left to the ordinary judicial tribunals, to the High Courts of this country.

"These are the two points of principle to which I thought it desirable to draw the attention of the Council in connection with this Bill, and I hope that these two points will be taken into consideration by the Select Committee to which the Bill is referred."

The Hon'ble MR. MADGE said :—" My Lord, if the Hon'ble Mover had kindly stated the reasons which had weighed with the Government in inducing them to reject the revocation clause of the English Act, I should not have taken up the time of the Council in explaining the views which I have been asked to voice in this place. The only papers circulated to this Council throwing any light upon this point are contained in the letter of Mr. Donny, in which reference is made to two clauses of the English Act, and in the letter from the Director of Public Instruction forwarding Mr. Heaton's suggestions. But these two quotations hardly develop the point to which attention ought to be drawn. The wording of the English Act, in section 27, is this :—

' At any time not less than four years after the date of a patent and not less than one year after the passing of this Act, any person may apply to the Controller for a revocation of a patent on the ground that the patented article or process is manufactured or carried out exclusively outside the United Kingdom.'

" From what I have been able to gather and read on the subject, among the reasons which entered into the minds of those who framed this clause were the facts that owing to the lower labour wages of Belgium, Germany and France, a large number of products were dumped at home at cheaper rates than they could be produced in Britain. Now it may be said that because in this country the labour wage is even lower than in Europe, arguments of that kind could not apply to a country like India. But as a matter of fact those of us who read trade quotations will find that a great many of the articles manufactured and brought from abroad could be produced in this country if some better protection were afforded in this country. I am not an expert on this question, my Lord, and I do not want to dilate upon it, but I have found—I have enquired amongst those who have more interest in the matter than I myself, and they have found—that our industries are not sufficiently protected and that a great deal is brought from abroad that might be made here, and that one of the avenues from which this evil creeps upon the country is the Patent Law. If that be so, I am sure the Hon'ble Member would confer a great favour upon our small captains of industry if he gave some attention to the doubts that I have tried to express."

The Hon'ble MR. ROBERTSON said :—" My Lord, I have nothing to add to the remarks that I made when moving that the Bill be referred to a Select Committee. We shall be prepared to consider the points pressed upon us by the Hon'ble Mr. Subba Rao and the Hon'ble Mr. Madge, although I personally can hardly hold out the hope that we shall be able to meet them

[*Mr. Robertson ; Mr. Jenkins ; Mr. Butler ; Sir T. [3RD JANUARY 1911.]  
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with regard to the provision as to compulsory working. The matter will, however, be fully discussed in the Select Committee."

The motion was put and agreed to.

#### CRIMINAL TRIBES BILL.

The Hon'ble MR. JENKINS SAID :—" My Lord, I beg to move that the Bill to amend the law relating to the registration, surveillance and control of Criminal Tribes be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Chitnavis, the Hon'ble Mr. Gokhale, the Hon'ble Nawab Abdul Majid, the Hon'ble Mr. Holms, the Hon'ble Mr. Phillips, the Hon'ble Malik Umar Hyat Khan, the Hon'ble Mr. Earle, the Hon'ble Lieutenant-Colonel Davies and the mover. I fully explained the scope and purport of this Bill when it was introduced into the Legislative Council, and I do not propose to cover the same ground again. Since the Bill was introduced, it has been published and the opinions of Local Governments have been invited. No objection has been taken to the principle of the Bill, as indeed was to be expected since the principle has been embodied in the existing Act for many years. Many suggestions have however been received upon minor points, and these will be fully considered in the Select Committee. I do not think that I need refer to these minor suggestions, which refer principally to points of drafting, and are essentially matters for the consideration of the Select Committee."

The motion was put and agreed to.

#### INDIAN PORTS (AMENDMENT) BILL.

The Hon'ble MR. BUTLER SAID :—" My Lord, I beg to introduce a Bill to amend the Indian Ports Act, 1908. The Bill is a very short one and a very simple one. Its object is to enable provision to be made for the preparation of a satisfactory code of regulations for the prevention of the spread of disease by means of ships arriving at and departing from India. The Bill has been published and only one verbal criticism has been elicited. I now beg leave to move that it be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Graham, the Hon'ble Maung Bah Too, the Hon'ble Mr. Subba Rao, the Hon'ble Surgeon General C. P. Lukis, the Hon'ble Mr. Monteatl, the Hon'ble Mr. LeMesurier, the Hon'ble Mr. Porter, and the mover."

The motion was put and agreed to.

#### INDIAN TRAMWAYS (AMENDMENT) BILL.

The Hon'ble SIR T. R. WYNNE moved that the Bill further to amend the Indian Tramways Act, 1886, be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble the Maharajahdiraja Bahadur of Burdwan, the Hon'ble the Raja of Dighapatia, the Hon'ble Malik Umar Hyat Khan, the Hon'ble Sir Lionel Jacob, the Hon'ble Mr. Graves and the mover.

The motion was put and agreed to.

#### INDIAN ARMY BILL.

His Excellency THE COMMANDER-IN-CHIEF moved that the Bill to consolidate and amend the law relating to the government of His Majesty's Indian Forces be referred to a Select Committee consisting of the Hon'ble Mr. Jenkins, the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Haque, the Hon'ble Pandit Madan Mohan Malaviya, the Hon'ble Khan Zulfikar Ali Khan, the Hon'ble Major General Sir Robert Scallon, the Hon'ble Mr. Madge, the Hon'ble Lieutenant-Colonel Davies, the Hon'ble Malik Umar Hyat Khan and the mover.

The motion was put and agreed to.



[3RD JANUARY 1911.] [Sir Guy Fleetwood Wilson; the President.]

## OPIUM (AMENDMENT) BILL.

The Hon'ble SIR GUY FLEETWOOD WILSON said:—"My Lord, I beg leave to introduce a Bill to amend the Opium Act of 1857 and to move that the Bill may be taken into consideration. This Bill is required to legalise a small change in the administrative machinery for the control of our Opium Department. Under the old Act of 1857, the supervision of the Opium Department vested in the Bengal Board of Revenue; but in more recent times the greater portion of the poppy cultivation in British India has moved into the United Provinces. The reduction in area which is now being effected in consequence of our agreement with China is still further diminishing the importance of the poppy industry in the Province of Bengal proper. The Agent—for we shall now have only one Agent—has his headquarters in the United Provinces; the bulk of the cultivation is in that Province; and the great majority of the establishment will be permanently employed there. It has thus become a matter of administrative expediency to transfer the direct control of the Department to the Chief Revenue-authority of the United Provinces. The Bengal Board will continue to manage the sales of provision opium at Calcutta; but in other respects their functions will now be taken over by the Board in the United Provinces.

"The Council will see that the Bill deals with a matter of simple administrative convenience, and involves no controversial matter or questions of principle. In introducing the Bill therefore I beg to move that it be taken into consideration at once."

The motion was put and agreed to.

The Hon'ble Sir GUY FLEETWOOD WILSON moved that the Bill be passed.

The motion was put and agreed to.

## ADJOURNMENT OF COUNCIL.

His Excellency THE PRESIDENT: "Gentlemen, I propose that we now adjourn until Tuesday, the 24th of January, when we will take up the various Resolutions which some Hon'ble Members have already placed on the paper and may place on the paper before that date; and after our meeting on the 24th of January, we will continue the discussion of the Resolutions and any other legislative business that may be ready *de die in diem* until everything is completed and until we are able to adjourn for the March session. The Council is now adjourned."

J. M. MACPHERSON,

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

CALCUTTA;

*The 12th January 1911.*