

Tuesday, 20th February, 1923

COUNCIL OF STATE DEBATES

(Official Report)

VOL. III, PART II

(24th January, 1923 to 27th March, 1923)

THIRD SESSION

OF THE

COUNCIL OF STATE, 1923.



DELHI
GOVERNMENT CENTRAL PRESS,
1923

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COUNCIL OF STATE.

Tuesday, the 20th February, 1923.

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

BILLS LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table the Bills which have been passed by the Legislative Assembly at its meeting held on the 19th February 1923. They are:

- (1) A Bill to amend certain enactments and to repeal certain other enactments.
- (2) A Bill to consolidate the law relating to the Government Paper Currency.

THE PRISONERS (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce a Bill to amend section 29 of the Prisoners Act, 1900.

This is a very small measure and I need add very little to the Statement of Objects and Reasons. Section 29 of the Prisoners Act empowers the Governor General in Council to move any prisoner confined in any prison to any other prison in British India, and sub-section (2) of the same section confers similar powers upon the Local Governments to make similar transfers within their own jurisdiction. Some inconvenience has been experienced because the jails in Berar, which are under the administrative control of the Government of the Central Provinces, do not come strictly within the terms of section 29. The situation now is that some of the jails in Berar are partially unoccupied whereas many of the jails in the Central Provinces proper are unduly congested. It is very desirable, therefore, in the interests of administrative experience to enable the Local Government to effect these transfers. This is particularly desirable because several of the recommendations of the Jails Committee for the amelioration of the condition of prisoners, such as, for instance, the separation of first offenders from other classes of offenders, cannot be properly carried out unless Local Governments had authority to effect these transfers. There are other considerations of a minor character, but the above are the principal objects which this Bill is designed to meet. I therefore move for leave to introduce this Bill.

The HONOURABLE THE PRESIDENT: The question is that leave be given to introduce a Bill to amend section 29 of the Prisoners Act, 1900.

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I introduce the Bill.

THE INDIAN NAVAL ARMAMENT BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

"That the Bill to give effect in British India to the Treaty for the Limitation of Naval Armament, as passed by the Legislative Assembly, be taken into consideration."

The Statement of Objects and Reasons explains fully the purpose and significance of the Bill and it is unnecessary for me to say more than a few words in support of the motion. The Treaty for the Limitation of Naval Armament was signed at Washington on the 6th February 1922 on behalf of His Majesty the King-Emperor and certain other Powers, the object in view being to contribute to the maintenance of the general peace and reduce the burden of competition in Naval Armament. The British Parliament has already passed an Act to give effect to this Treaty and it is here proposed to enact a separate but corresponding Statute which will give effect to the provisions of the Treaty so far as British India is concerned and will contain special provisions necessary to meet Indian conditions. In view of the principles which the Bill embodies and the purpose which it seeks to achieve, no further justification is required from me. I move now that the Bill be taken into consideration.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect in British India to the Treaty for the Limitation of Naval Armament, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill. We will reserve the Preamble as usual.

The question is that clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Schedule stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was adopted.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect in British India to the Treaty for the Limitation of Naval Armament, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE WORKMEN'S COMPENSATION BILL.

The HONOURABLE MR. D. T. CHADWICK (Commerce Secretary): Sir, I beg to move:

"That the Bill to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, as passed by the Legislative Assembly, be taken into consideration."

The House is invited to-day to open an entirely new field in the labour legislation of this country and sow therein a new kind of seed. Hitherto, we have only interfered by legislation in regulating the relations of employers and the employed by providing for safeguards in the industry and by regulating the total number of hours of work. To-day, however, we are experimenting with a new kind of law. It therefore behoves us, Sir, as careful husbandmen to be as careful as we can to clean the ground thoroughly and sift the seed so as to make the conditions of trial as favourable as possible. It is incumbent on us to see that when this field comes to harvest it shall not yield a crop of litigation and disputes but some useful grain. That is not an imaginary statement. From a law of this nature it is very easy to get a crop of litigation and disputes. This principle that employers should be responsible for giving compensation to those of their workmen who get damaged or hurt in the course of their employment has been accepted in very many countries of the world. It is not a new one, but it is new and entirely new in India. If, for a moment, we look round, we see many employers in India who are extremely careful of the conditions under which their labour works, but as industry develops and machinery becomes more used and more common, we know that there are and will be employers who are not so scrupulous and not so careful. This Bill is not purely a humanitarian Bill. It has been found in other countries that as a result often of legislation of this nature and of placing of these obligations on employers, employers of the class I have mentioned become, as a rule, more careful of the conditions under which their labour work. On the other hand, the workmen feel greater security and safety in the conditions of labour and the provision made for them in case of accidents. Therefore, I say, Sir, that this Bill is not purely a humanitarian one, but it is fraught with very considerable economic possibilities, and we must look at it carefully not from the point of view of our feelings but from the point of view of its economic possibilities and of its possible economic results. It lays on the employer an obligation to pay compensation in certain cases. In so much as it does that, it puts an added cost on to his shoulders and that ultimately will mean an added cost to the consumer in this country in some form or another. Therefore, Sir, it is indeed to our interests to see that the cost that is placed upon the employer is reasonable and right and is not likely to be excessive. Thus, there are two points that we have got to bear in mind. One is to try and prevent this legislation from becoming a source of litigation and disputes, and secondly, to prevent it being too onerous on the employer and at the same time to see that it affords a fair right and just treatment for the workmen. The means by which this has been attempted to be gained are by making the provisions of this Bill as precise and as simple as possible. Everybody who knows at all the conditions of labour in this country, how liable it is to migrate on the slightest excuse to its own village, how easy it is not only for the labour of this country but for anybody to malingering when they get a chance, will realise that the placing of an obligation such as this on the employer is apt to

[Mr. D. T. Chadwick.]

open avenues for grave abuse by the workmen. At the same time, if we can satisfy the workmen that they are going to get good treatment, that they are entitled to compensation if hurt, and are not merely dependent on the charitable instincts of the employer for the time being, we may hope to help in building up a steady labour force without which the industries in this country cannot develop.

This Bill has been threshed out very carefully, first of all, by circulation amongst Local Governments, then by an *ad hoc* committee, then circulation again, and ultimately by the Joint Committee to which it was referred for detailed examination. The whole tendency of their work has been to aim at precision and simplicity. In Schedule II of the Bill, the industries to which it is applicable are specified. This is a fairly comprehensive list, but it is far from being a complete list. It applies definitely to those industries which can be called in any way by their nature hazardous. Provision is made for extending it to other hazardous industries, or such as may be deemed hazardous from time to time. But there has been no attempt whatever to make this a wide or a general Bill covering every kind of employment. Further, we have specified in the Bill the amount of compensation which a workman is to receive, and thirdly, we have specified those who should benefit under the Bill in case of the death of a workman. There we come to a very controversial point, because we have not followed the principle of dependency but the principle of relationship. The intention of doing so is obvious. It was in order to prevent as far as possible litigation and disputes as to who exactly were the dependants of a deceased workman at the time of his death. Also, a special machinery has been put up in order to deal speedily with the disputes and questions arising under the Bill. Efforts have been made under the Bill to try and compel, or insist, or make it almost essential to have a medical examination at an early stage. Thus, Sir, if the Bill be examined carefully from the purely humanitarian point of view, there is not the slightest doubt that many could be able to suggest improvements in it. But in an experimental measure of this sort, it is above all things necessary, and the thing that is most desirable is, that the workman should know clearly what his rights are, that the employer should know what his obligations are, and that the machinery which may be erected to give force to them should be as simple and as easy in its operation as possible. The details are difficult to work out, but these I claim to be the guiding principles upon which this Bill has been framed. It has been scrutinised extremely carefully by different Committees word by word and I commend it to the consideration of the House.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): I am sure the measure now introduced will be considered by all sections in this country as indeed a very beneficent one in the interests of our working classes. If India wants to advance and advance fast politically, it must prove its ability to do so by the ready acceptance of social legislation like the one now before the House. If we compliment Government on having brought forward this measure I think we are equally thankful to capitalists, namely, the employers of labour, for accepting the measure without any demur and what is more, as those who were on the Joint Committee will bear me out, in having in some cases gone even one better than the recommendations that were submitted in the original draft. This is a happy augury. This Bill, as the Honourable Mr. Chadwick has just

now explained, aims at placing the principles and the privileges under the Act in a manner more simple than is the case in the corresponding Act in the United Kingdom. We follow in the main the principles and the provisions of the English Act, but in preparing this Act due regard has been paid not only to the conditions of this country but also to the habits of its people. In trying to do so, perhaps, in one particular we have not been able to meet public criticism satisfactorily and that is in regard to the very wide powers given to the Commissioner. Of course, as I have said, nothing better could be done, because our first endeavour is to bring about simplicity in the working of the Act. Let us hope therefore that the different Provincial Governments will exercise the very greatest care in the selection of men whom they appoint as Commissioners. Not only should they be men of sufficient legal knowledge but they should be men of high integrity and probity.

Another criticism that has been advanced is that perhaps this measure is far in advance of the times so far as India is concerned, that in England they waited for nearly a century after the beginning of the growth of industries before the Employers' Liability Act and several years later the Workmen's Compensation Act were introduced. I hold, Sir, that if this Act is introduced in this country at an early stage when industries are just beginning to develop, the early introduction of such an Act may prove the means of bringing about a better understanding between labour and capital in this country and thereby perhaps avoid the many pitfalls which have, as we know, beset the path of labour and capital in the West.

Sir, I should like to say one word in regard to the deletion of the original clauses 3, 4 and 5 of the Bill relating to the Employers' Liability Act. The Joint Committee were of opinion that they may best be removed from the present Bill. In fact it would appear that the original Committee on whose recommendation the Bill was drafted were themselves in doubt as to the inclusion of these sections. The main point of difference between the Employers' Liability Act and the Workmen's Compensation Act is this, that whilst in the Workmen's Compensation Act, the employee is not required to prove any negligence on the part of the employer, he is so required in the Employers' Liability Act, but what is more, since the introduction of the Workmen's Compensation Act, nearly 25 years after the passing of the Employers' Liability Act, the Employers' Liability Act has practically become a dead letter in the United Kingdom. As that is so, the House will admit the Joint Committee have acted very wisely in dropping those sections in our Act which deal with the Employers' Liability Act.

There is another point to which I should like to refer and that is that the Act is made to commence from the 1st July 1924. This is advisedly done. The departure is a very novel one and if employers were not given time to make satisfactory arrangements for carrying this risk, perhaps, it would act very harshly on some employers who unfortunately may have accidents in their factories affecting a number of people. The original committee on whose recommendation and advice the Bill was drafted had the benefit of the guidance of one of the ablest men in this particular line of insurance—Mr. McBride, himself the Chairman or a former Chairman of the Accident Insurance Offices Association in England. I have no doubt that with what he has seen himself in this country and with his acquaintance with the manner in which the Bill was drafted, he

[Mr. Phiroze Sethna.]

will be able to prevail upon the English insurance companies and I doubt not their example will be followed by the Indian companies to accept risks under the Workmen's Compensation Act and charge rates in this country which, though in the beginning are not exactly on a level with the rates charged in the United Kingdom and elsewhere, will be sufficiently reasonable and that they will not prove a burden on the industry. With these words I support the Bill.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): As one who is neither an employer of labour nor in any way identified with the labour movement, I can claim to take a somewhat impartial view, if I may say so, of the provisions of the Bill that is before this House. The principle underlying the Bill, Sir, is a very simple one. In fact it has been the effort of two committees which have dealt with this Bill as also of those who have drafted it, to make it as simple and easy in working as possible. There is no doubt that the increasing use of machinery and the growing complexity in industrial activities make it incumbent that some sort of protection against risks should be given to those who are employed as workmen. Up till now, as the House is aware, there has been no provision under any law to pay compensation to those workmen in cases where they have suffered temporary or permanent injury. The Bill, among other things aims at protecting the interests of workmen and compensating them in case of injury. The machinery that is provided by the Bill is a simple one. Without taking away the jurisdiction of the Civil Courts, the Bill provides for the appointment of Commissioners who will be easily accessible to workmen and who will expeditiously dispose of all disputed cases between employers and workmen. The Bill no doubt contains many provisions greatly beneficial to workmen, but I am not quite free from doubt whether in the present undeveloped state of our industrial life some of its provisions will not press too heavily on small employers of labour. So far as large employers of labour who make use of complicated machinery that exposes the workman to great risks are concerned, I have no doubt, Sir, that the provisions of the Bill are on the whole fair to employers and very largely equally fair, except perhaps in a case or two, to workmen. But I am not quite sure, Sir, whether the small employer of labour will also be in a position to find funds to work out the provisions of the Bill. I have no doubt, however, Sir, that in course of time such small employer will get himself accustomed to its provisions, and by a careful use of the provisions of the Bill will be in a position to discharge the additional burdens that are laid upon him. I welcome the Bill, imperfect though some of its provisions may be.

The HONOURABLE MR. C. A. INNES (Commerce and Industries Member): Sir, I must thank the Honourable Mr. Sethna and the Honourable Mr. Raza Ali for the cordial welcome they have given to this very difficult Bill. I am quite prepared to admit that there are, as Mr. Raza Ali has pointed out, imperfections in the Bill. As I have said, it is a very difficult Bill and it is inevitable that when we are drafting for the first time a Bill of this kind for India, there must probably be imperfections in our draft. We are trying to adapt to Indian conditions legislation which has grown up in entirely different conditions. But if there are imperfections, Sir, I can only hope that time will bring them to light, and that we shall at a

later time correct them. This Bill, I wish to emphasize, is admittedly an experimental Bill. The Honourable Mr. Sethna has made one or two criticisms regarding the Bill. He has suggested that possibly we have given too wide powers to the Commissioners. Well, Sir, as Mr. Sethna has himself pointed out, we did that advisedly. Our object was to provide the simplest possible machinery for deciding any questions or disputes which may arise under the Bill. But I entirely agree with Mr. Sethna that a heavy responsibility will lie upon Local Governments in selecting officers for this very responsible post of Commissioner, and the Honourable Member may rest assured that when we address Local Governments in regard to the provisions of this Bill, as undoubtedly we shall have to do, we shall draw their attention to the very great importance of exercising the greatest care in the selection of these officers. The Honourable Mr. Sethna, again, suggested that possibly it might be held that this Bill was in advance of the times. But he went on to supply the answer to the question which he had raised: nothing has surprised me more, Sir, than the very cordial reception, the favourable reception which this Bill has received from employers throughout the country. I confess that I was surprised, but I think I know the reason. I think that employers in the country recognize, and no one can gainsay, the justice of the principle underlying this Bill. They recognize that legislation for compensation to workmen has been passed in most countries of the world, in practically every civilized country of the world, and they recognize that that legislation is bound to come in India. And I think, Sir, that they see that it is very much better that that legislation should come by consent on the part of employers, by agreement between the employers, the workmen and the Government, rather than that this legislation should be forced upon employers by a long course of industrial strife. That was the way in which legislation of this kind was brought about in England; it was the fruit of a long period of strife and stress and struggle between capital and labour. We in India are more fortunate. We have before us and in front of us the experience gained in other countries, and that is why we have elected to put this Bill before the country in order that the country may apply to India in good time the results of the experience gained in other countries. And, Sir, we were not disappointed. As Mr. Sethna said, we are under a great debt of gratitude to employers throughout the country for the very favourable reception they have given to the Bill. Mr. Raza Ali suggested that the Bill might press hardly upon the small employer of labour. Well, Sir, we had that danger in mind when we drafted the Bill, and that was one of the reasons why we did our best to limit the scope of the Bill. We tried to limit it as far as possible to hazardous industries and to organized industries, and I hope that in that way we have reduced the burdens which this Bill, this legislation, may throw upon the small employer, and also the small employer has a remedy in his own hands. I am quite sure that, as Mr. Sethna has said, this Bill will give rise to a great increase in the habit of insurance in this country, and the small employer will no doubt take advantage of the facilities which Insurance Companies will assuredly offer in respect of this Bill; and if they do, I do not think that we need apprehend that the Bill will impose an undue burden upon those small employers. If the Bill leads the small employer to pay more attention to the safety of the workmen who work for them, then that will be all to the good. I think, Sir, I have dealt with all the points raised so far in this debate, and it only remains for me again to thank the Honourable Members who have spoken for the reception they have given to the Bill.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan): Sir, this is a one-sided Bill, because it does help the labourers, but I do not think it helps so much the employers or capitalists. In these days of democracy everybody naturally goes in for this small class, but after all I think the employers should also get some sort of help. I just put before the House the case of a mill-owner who collected money,—and whose mill was burnt the other day. He collected some 5 lakhs on exorbitant rates of interest. The mill was burnt up, and I think he lost all the money. Nobody who gave him any capital could realise it. Now supposing there had died about 100 men,—from where would he bring this money to compensate them? That is why I say that in places this Bill would be very impracticable. Again, Sir, sometimes, awarding compensations to an employee, the employer may not have got the means to give it. If one man gets the compensation, the other man is absolutely hit. Perhaps so that all people dependent on him will suffer. I hope that in such a case the Commissioner will be judicious and see that the poor employer and his family does not suffer any more than the other man. I hope this point will be given due consideration. With these few remarks, Sir, I neither oppose nor am in favour of the Bill.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan): Sir, as an employer of labour, I give my hearty support to this Bill. One thing which I have not been able to follow from the provisions of the Bill is that an exception has been made in the case of railway employees and other workmen employed in various Government concerns.

The HONOURABLE MR. D. T. CHADWICK: No.

The HONOURABLE THE PRESIDENT: If the Honourable Member wishes to address the House, he shall address his remarks to the Chair.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I cannot find out whether the provisions of this Bill apply to men working on the Railways or in various other Government concerns and I should like the Honourable the Commerce Member to throw some light on this question.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, the Honourable Mr. Chadwick and the Honourable the Commerce Member have placed the principles underlying the Bill so lucidly that very little remains to be said. They have taken advantage of the spirit of compromise and good will that is now prevalent in India, not only amongst the labourers and the employers, but amongst other communities too as was noticeable in the other place at the time of the debate on the Racial Distinctions Bill. It was due to that spirit of compromise that this Bill has been passed without any material alteration in the other House and I am quite sure that it will be passed unanimously in this House also. We can take pride, Sir, in the fact that this is the fourth legislative measure of social reform that will be passed since the new Reforms came into existence. That is a big item on our credit side, Sir. Although for this thanks are due in the main to the Government of India as represented by the Commerce and Industry Member, still thanks are due also to the representatives both of employers and labour in both the Houses. There is only one point, Sir, on which I would like the Honourable Member to give an assurance of the same kind as he was

pleased to give in the other House, and that is that the question of seamen when they are working in vessels registered outside British India will be taken up as early as possible. There were, as the Joint Committee says, certain legal difficulties in the way of applying the measure to those vessels. But when the debate proceeded in the other House, the Honourable the Commerce Member was good enough to say that he will take up the subject as early as possible and that further provision for the Indian lascar seamen will receive his early attention. I hope he will not forget to take up this matter soon. With these words, Sir, I welcome this Bill.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, as a Member of the Committee of the Bombay Mill-owners' Association I also welcome this Bill. In fact, this Bill was sent to the Committee some time before the Joint Committee began their discussion, and it was carefully gone into and suggestions were made, and I am glad to see that many of their suggestions have been adopted by the Joint Committee. There is only one remark I wish to make in regard to what fell from my friend the Honourable Mr. Sethna. Of course, this is a legislative measure of social reform. But we know that it is the spirit of the age that has done it. The spirit of humanity is now more prevalent amongst all classes in the world and that has forced on this kind of legislation. No civilised Government could remain long without having legislation of this character in reference to both capital and labour. As far as the Bombay millowners are concerned, I may observe that this question of compensation has been considered and practically carried out by millowners long long before even the Government or anybody else thought of it, and they have been doing their best in cases of accidents and in cases of death to recompense either the injured workman or his family and children. This way of compensating in a very liberal manner has been the practice in the Bombay mills for the last 25 years. I may add that in the mills I have the honour to represent, I myself drafted some 22 years ago all the rules with reference to injuries, deaths and even retirement. Many other mills have been known likewise to give compensation. So that, as far as Bombay millowners are concerned, I may say that they have long long been in advance of this social reform legislation that is spoken of. I repeat that it is owing to the world-spirit of humanity. The humanitarian views that are prevalent in all parts of the world and the enlightened self-interest of the capitalists themselves demanded that this sort of compensation should be made. I therefore heartily welcome the Bill. Aye, the Millowners themselves have welcomed it, and I feel sure that the Bill will be unanimously passed.

The HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, so much has been said in the way of welcoming this Bill that I won't detain the House with a speech, but I think, perhaps, as representing the Bombay Chamber of Commerce, I too should add a word of welcome to this very important measure. The Bill, I think, as presented to this House is a good one. I do not think it would become me to eulogise it very much more than that because I happened to be on the Joint Committee. The Joint Committee had many discussions to deal with. I will also say we had many arguments most of which were settled satisfactorily, and the result has been the Bill which is before us here to-day. I think it is a good one. It is a progressive measure. We have tried to be fair both to the employers and to labour and I heartily recommend it to this Council.

THE HONOURABLE MR. D. T. CHADWICK: Sir, I thank the House for the very cordial welcome which the whole of this Bill has received. In reply to my Honourable friend Rai Bahadur Lala Ram Saran Das, I would point out that railway servants are specifically included in the Bill. Further also are all other employees of Government who if the work they were engaged upon was such as would bring them under the scope of the Bill if it were performed privately are subject to the Bill. As regards the question of lascar seamen, that is a difficult one. I can renew the promise referred to by the Honourable Mr. Lalubhai Samaldas, it is being and will be considered. What the Honourable the Commerce Member said elsewhere was that he was quite prepared, when they had cleared up that difficult question of completing the Bill with which they were engaged for the moment, to make further provision for Indian lascar seamen and he hoped that that would be accepted as a reasonable solution for the present of this very difficult question. I have nothing more to add, Sir.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill. We will reserve the Preamble as usual.

The question is that clause 1 stand part of the Bill.

The motion was adopted.

THE HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, there stand in my name two amendments to paragraph (d) of the first sub-clause of clause 2. Of these two I do not move the first, but shall proceed with your permission, Sir, to deal with the second. The second is that in that part of the clause, after the words "minor son" the word "unmarried" be substituted for the word "minor", and that between the word "daughter" and the words "minor brother" be inserted the words "married daughter who is a minor".

The House will see the alternation at once. The clause at present reads: "Dependant" means any of the following relatives of a deceased workman, namely, a wife, husband, parent, minor son, minor daughter, minor brother or unmarried sister, and includes certain other persons. It seems to me that, as it stands, there is an anomaly because an unmarried daughter who is not a minor gets nothing and an unmarried sister when her brother dies gets compensation. There seems to be no reason why an unmarried sister who is not a minor should receive compensation when an unmarried daughter who is not a minor does not. An unmarried girl may be at the same time the daughter of a living father and sister of a living brother. Now, she will be, in that event, in all probability supported if supported by any one,—supported by her father and not by her brother. Yet, as this definition is framed, if the brother, being a workman, meets with an accident which results in his death she will be compensated although she has not lost her supporter, whereas if her father died she will get no compensation although she has lost her supporter: and that for the simple reason that she is over 15 years of age. That appears to me to be an anomalous position which I believe the framers of this Bill and the

Honourable Member in charge of it will be perfectly ready to remedy. There are two ways in which this anomaly can be removed. In order to place these two unmarried girls on the same footing with regard to receiving compensation, either put in the word "minor" before the words "unmarried sister" in which case they will stand on the same footing, or you can substitute for "minor" in the case of the daughter the word "unmarried" in which case also they would stand on the same footing. I have chosen in my amendment the latter course, mainly because it seems to me that that is the juster, the more equitable course, a course which will provide for a class of persons who may be small but who will be in all probability real dependents. I am aware that the framers of the Bill have discarded the doctrine of real dependency in framing their definition. But where, as you have here, there is a case of choice between confining your compensation based upon the definition of relationship to the case of two girls who will probably be real dependants, it seems to me better that you give them compensation than that they should be excluded from a right to enjoy it. I have asked why a daughter who is unmarried but not a minor is excluded, and it has been suggested to me that in working class families in India there is no such thing. Sir, if there is an unmarried sister who is not a minor, of course, there may be an unmarried daughter who is not a minor, but I pass that over because it is possible that the idea of the framers of the Bill was to confine the grant of compensation in the case of the unmarried sister also to minors, and the unmarried sister who is over 15 has so to speak slipped in unnoticed. Therefore, I do not make that point, but I think that the statement that there is no such thing, practically no such thing as an unmarried daughter who is over 15 years of age, is probably inaccurate for one thing and if it be accurate, if the number of persons who occupy that position is so small that it is negligible, then I think the inclusion of their names, it is obvious, would do nobody any harm. But I am satisfied that the number of these cases which will arise of unmarried daughters and unmarried sisters who are above the age of 15 will not be negligible though it may not be great. We are legislating not only for the Hindu and Muhammadan communities among whom it may be early marriage is very much the rule to which there may be but rare exceptions, but we are legislating also, as I understand the position, for everybody, the Indian Christian, the Anglo-Indian, the European, whose families may belong to the working classes and the members of whose families may be workmen within the meaning of this Act. Undoubtedly, in the case of all those three communities there are unmarried girls of 15 years of age and over: the number of cases which will arise in consequence of that fact will not, I dare say, be great but will not I believe be negligible. But in any event whether it is practically negligible or not, that is no reason why in the few cases which do arise compensation should not be granted to them as well as to others. In Indian Christian families I believe there are often girls, daughters who have attained the age of 15 before they are married. In Anglo-Indian families I think that that is often so; in European families I know it is almost invariably so, and there is no reason why these cases should not be provided for. Objection may be taken, as the definition is framed, that if we admit these unmarried girls who are over 15, we are legislating unfairly against the interests of employers by granting compensation to able-bodied females of mature age who can earn their own living and are not dependent on anybody. Sir, the objection is sound. That is due to the defect in the definition. It is due to the Bill not providing the real and true test of dependency but only an artificial age limit instead. But

[Sir Leslie Miller.]

there is no reason apparent to me why an unmarried sister and an unmarried daughter, able-bodied and independent though they be, should necessarily or probably be more independent than a widow, husband, father, grandfather as the case may be; but all these persons may be entitled in certain events to claim compensation whether they are really dependent or whether they are independent, and they will all generally be above the age of 15. I therefore only propose to bring into line with theirs, the case of the unmarried daughter. The second part of my amendment does not introduce any change in the law. It is merely

12 Noon. necessitated by the fact that under the first part the minor daughter is replaced by the unmarried daughter. It is therefore necessary in order to preserve her right (and I do not want to take it away) that the married daughter who is a minor should also be entitled to compensation.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I support the amendment because if girls at that age do not get compensation I think there will be many sorts of trouble. From the point of view of morality also, I support it.

The HONOURABLE MR. C. A. INNES: This definition of dependent has been subjected to examination on more than one occasion by numerous gentlemen who have got far greater acquaintance with the intricacies of relationship in India than I can claim to have and it is a very curious fact that this is the first time that this particular point which has been brought to notice by my Honourable friend, Sir Leslie Miller, has emerged. The real reason is, I think, that unmarried daughters above the age of 15 are very few and far between in India. At the same time, there may be, as Sir Leslie Miller has pointed out, cases where girls above the age of 15 are not married and there may be a few cases of hardship with the definition as it is at present, and that being so I am quite prepared to accept the amendment moved by my Honourable friend.

The HONOURABLE THE PRESIDENT: The question is that the following amendment be made:

"That in part (d) of sub-clause (1) of clause 2 of the Bill after the words 'minor son' the word 'unmarried' be substituted for the word 'minor' and that between the word 'daughter' and the words 'minor brother' be inserted the words 'married daughter who is a minor'."

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

"That in sub-clause (f) of clause 2 (1) of the Bill the words 'or body of persons whether incorporated or not' be omitted."

This is a purely drafting amendment. The point is that those words are unnecessary. The House will notice that in the first line of sub-clause (f) the words occur 'Managing Agent means any person', etc., and under the General Clauses Act which governs the interpretation and meaning of words, 'person' used in any Act or Bill includes 'persons' and also includes 'any body of persons whether incorporated or not, if it is not hostile or repugnant to the general sense of the clause'. Therefore under the General Clauses Act, these words are not necessary. It will also be a disadvantage to retain them as they might lead a Court to apprehend that some subtle difference was being drawn between the meaning of the word 'person' in the first line and the body of persons, whether

incorporated or not, in the third line. That is the reason for making this amendment.

The HONOURABLE THE PRESIDENT: Before I put that amendment, I would point out to the Honourable Member that a similar phrase occurs in clause (e).

The HONOURABLE MR. D. T. CHADWICK: I am advised that had clause (e) been worded in the form "Employer means any person", etc., then those words would not have been necessary but I am told that those words must come in in clause (e) as it simply reads "includes any body of persons", etc. It is a subtle point which I admit I have had a little difficulty in seeing.

The HONOURABLE THE PRESIDENT: I merely draw the Honourable Member's attention to it, because he cannot seek to amend clause (e) after we have passed on to clause (f).

The HONOURABLE MR. PHIROZE SETHNA: Do I understand that the Honourable Mr. Chadwick desires to eliminate those words in sub-clause (f) because they are redundant, as the definition of the word 'employer' includes it?

The HONOURABLE MR. D. T. CHADWICK: No.

The HONOURABLE MR. LALUBHAI SAMALDAS: I could not quite realise why the words "whether incorporated or not" are kept in clause (e) and why the same words in the following clause are to be omitted. I am not a lawyer but as a layman it looks to me that if you are going to omit these words from sub-clause (f) it will be better to omit them from the definition of employer and word both the sub-clauses in the same way.

The HONOURABLE MR. C. A. INNES: This is a point which we might leave to the drafters. We are advised that in clause (e) there is no objection to the inclusion of those words and that in clause (f) the words are entirely unnecessary and redundant having regard to the provisions of the General Clauses Act. It is entirely a drafting point. We may leave it at that.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, before you put clause 2 as amended, there is one observation which I should like to make in connection with the doubt expressed by my Honourable friend Rai Bahadur Ram Saran Das, as to whether employees under the railways come within the purview of this Bill or not. If the Honourable Member will turn to definition (n) of sub-clause (1), he will find, leaving out the words which are unnecessary, "workman" means a railway servant as defined in section 3 of the Indian Railways Act.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Not permanently employed.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Not permanently employed in any administrative, district or sub-divisional office.

The HONOURABLE THE PRESIDENT: The question is that clause 2, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE SAIYID RAZA ALI: Sir, I move:—

“That in paragraph (b) of the proviso to sub-clause (1) of clause 3 before the words ‘in respect of’ the words ‘except in the case of death or permanent total disablement, in either of which cases he shall be liable to pay half the compensation which he would otherwise have been liable to pay’ be inserted.”

The Bill, as has been explained, has been carefully considered by more Committees than one. I may be excused, Sir, if I inform the House that the Bill as originally drafted and introduced in the Legislative Assembly contained a provision which was numbered as clause 6, sub-clause (i) (b), which provided that if a workman committed a negligence or misconduct by contravening the rules made in this behalf by any firm and which were duly explained to him, and if an accident was caused thereby which resulted in the death or permanent disablement of the workman, he or his dependents would be entitled to half the prescribed compensation. It seems, Sir, that the Government of India as then advised—and they had been advised at that stage by a very competent and strong Committee—were of opinion that, in justice to the workman, it was necessary, if his negligence or misconduct resulted in a very grave accident, to allow some compensation either to him or to his dependents. The Bill thereafter was circulated among various influential societies, societies of capitalists and employers of labour—and they are always influential; opinions were also asked for from Local Governments, and in the light of those opinions and representations received, the Joint Committee of the two Houses proceeded to formulate their decisions. It was pointed out there, and it was pointed out again when this Bill was before the Legislative Assembly, that most of the opinions invited were against the retention of this clause. Now, Sir, literally that may be true. But I venture to say that if those opinions are scrutinised, it will be found that those who opposed the retention of this clause were societies and associations of capitalists and employers of labour. I do not mean to say that due weight should not be attached to those opinions. But I do not think it is a correct position for the Government to take, to say that the vast majority of opinion in this country was against this provision. On referring, Sir, to those opinions, I find that of all the Governments consulted, only one Government, namely, the Central Provinces Government, deemed it necessary to express any opinion on this question; and that opinion, as the Government Benches well know, was not at all hostile to this clause; in fact the opinion of the Central Provinces Government was that instead of making provision for awarding half compensation to the workman or his dependents as the case may be, the provision might be modified in such a manner as to award compensation not exceeding half that amount to those concerned. No other Local Government, Sir, it appears, thought it worth its while to give any opinion, so that the position, so far as the opinions invited are concerned, is this; on the one hand, we find a well organized, influential, solid block of capitalists and employers of labour, for whom I have great respect—one has always great respect for them—on the other hand, we find an ignorant, totally disorganized, helpless labouring class, with Government holding the balance between them. Fortunately, it appears that the Local Governments did not seriously

trouble themselves about this question, but to the credit of one Government it must be said that it expressed an opinion, and that opinion, Sir, so far as it went, was in favour rather of labour than of the solid phalanx of capitalists. That, Sir, was the position when the Joint Committee entered on their deliberations. The net result of the report submitted by the Joint Committee was that this provision in favour of the workman was deleted. I think, Sir, I will not be guilty of betraying the secrets of the Joint Committee when I say that this provision was deleted by a narrow and a very narrow majority indeed.

THE HONOURABLE SIR ALEXANDER MURRAY (Bengal Chamber of Commerce): I rise to a point of order.

THE HONOURABLE THE PRESIDENT: I notice a considerable laxity in debate in referring to matters which happened on Select or Joint Committees. I think the rule should be that a Select Committee's or a Joint Committee's Report is the only means of bringing before the House the deliberations of the Joint Committee or Select Committee.

THE HONOURABLE SAIYID RAZA ALI: I find, Sir, that my observations were in strict conformity with the ruling that you have given. As a matter of fact those who have gone through the Report will find that there are as many as 4 minutes of dissent on this point. The Report says that.

THE HONOURABLE THE PRESIDENT: Then the Honourable Member is in order.

THE HONOURABLE SAIYID RAZA ALI: Then, Sir, the Bill went to the Legislative Assembly. Now there, I must say that the enthusiasm of those who are interested in labour outran their discretion, with the result that the amendment that was sought to be inserted in this Bill was one to give full compensation to a workman in case of death or serious permanent disablement being caused owing to any accident which was attributable to his misconduct or negligence. The result was, Sir, that the wisdom of that House did not sanction a measure of that character being placed on the Statute Book, and now we have got to deal with it. The whole question can be looked at, Sir, from three different points of view. The first is as to whether the Government are not estopped, if I may say so not having got over the habits of my profession, from raising this issue here and saying, 'though we made originally a provision in the Bill for awarding compensation to workmen, we find, after all, that we must give now a go-bye to that salutary provision.' Now, the second question, Sir, will be how far we can follow the provisions of the English law on this question, and the third and the real question will be having regard to the interests of capital on the one side and labour on the other, what is the most equitable, what is the most fair way of dealing with this question. Now, Sir, I do not propose to take advantage of technicalities of law, though I am entitled to present them to Government.* In fact, it appears that in the statement of objects and reasons which was circulated along with the Bill as it was introduced in the Legislative Assembly, Government laid some stress on this important measure. It appears, Sir, that the view of the Government then was:

"If the workman himself is directly responsible for the accident, the employer should not ordinarily be liable for compensation. An exception is made in the case where very serious results arise from the accident, as it is felt that to deprive a workman of all compensation in such cases would act as a great hardship. Half the usual compensation is therefore allowed in cases where the workman is killed, or is completely disabled for life."

[Saiyid Raza Ali.]

That was the view of Government at that time. My submission is that this departure of policy that has been made by Government clearly under pressure exercised on behalf of the capitalists and employers of labour is not justified. It appears that on the whole Government's first thoughts were the best thoughts which held the balance between the two contending parties. Now, the next question as I said, Sir, would be how far we can derive inspiration from the English law on this point. I am not one of those, Sir, who would go in for a servile imitation of the English law on every point whether it suited the conditions obtaining in this country or not. But, Sir, other things being equal or almost equal I think it would be unreasonable to shut our eyes to the provisions of the law as they obtain in that country, especially on a question of this character. When we know that industrial life in England is very highly developed, we can certainly with advantage follow the provisions of her law unless it is made out that the conditions obtaining in this country are vastly different. The provisions of the English law, Sir, are more sympathetic and go much further than the principle that is embodied in my amendment. In fact, section 1, sub-section (2), clause (c) of 6 and 7 Edward, Chapter 28, enacts :

"If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed."

A perusal of the debate that took place in the House of Commons in December 1906 when this measure was before that body is very instructive. I regret, Sir, that the time at my disposal does not allow me to go through it. All the same I must say that most of the objections that were raised against the retention of the clause as originally embodied in the Bill were gone through very carefully in the House of Commons. I believe the course of the debate in this House will run along the grooves that were marked out in the other House. The position, Sir, broadly stated, is this. The industrial life of the country is becoming more and more complicated due very largely to the increasing introduction of machinery. In times gone by the workman was not called upon to handle any dangerous machinery at all. Now, owing to the changed conditions of life, he is engaged in handling very complicated machinery during the course of his employment. It is clear that labour in this country is not as intelligent, as educated, and as informed as labour in Europe. The misconduct that has been defined in clause 3, sub-clause 1 (b), falls into three categories, and every one of them, in fact, lays stress on the wilful negligence or misconduct or wilful disregard of any rule on the part of the workman. Sir, I appreciate the force of the argument that if a workman brings about a catastrophe on himself owing to any wilful disregard of any instructions given or of any wilful serious misconduct, he should not be entitled to any sympathy from this House. I must say that I fully appreciate the force of that argument. But, Sir, the law as it is embodied and as it has come before this House goes much further than that. If a workman acts negligently or shows any misconduct in the discharge of his duties, and if he injures himself no doubt he should not be entitled to any compensation. But what is the law as it is embodied in the Bill which the Government want us to pass? It says that if the negligence results in very serious accident, so serious that the man is killed or is permanently disabled for the rest of his life, then it should be open to the employer to hurl his negligence or misconduct at his face and say, "You disregarded the

instructions given or you showed this misconduct which was responsible for the accident, and therefore you or your dependants are not going to get a pie." With great respect, I submit, Sir, that this is not a proposition which will find acceptance at the hands of any reasonable body of persons, much less I hope of this Council. The employer says: "This accident is not due to any fault of mine. Therefore you must take the consequences." The reply that I would venture to make to that proposition is that no doubt, as I have said, in the case of minor accidents, the man should not be entitled to any compensation. But is there any man who would believe that simply with a view to get a few hundred rupees out of the employer or the capitalist a man would go and get himself killed? We have heard of the proverb that one should not cut his nose to spite his face. But here it appears that the suspicion that is raised against the workman goes much further than that. It assumes that the man deliberately would court death in order to make a provision for his wife and children or would consent to become a permanent invalid in order that he might draw a paltry pension of a few rupees for the rest of his life. Sir, is this a proposition that would commend itself to any reasonable man? Is this a proposition that will find favour at the hands of any man who has experience of the conditions of labour in this country? I strongly hope not.

Then, Sir, it is pointed out that after all it is not for the employer of labour to make provision, it is for the State to take action by instituting a system of national insurance. I do not think I should take any serious account of that argument. It involved a very big question but it is advanced by employers on behalf of labour in order to avoid their duties in relation to workmen. I hope and sincerely hope that a time will come when the State will embark upon a scheme of national insurance, but that time is not yet, and surely it should not be open to employers to advance that argument with a view to shirk, if I may say so, their own duties.

Advantage is taken of the proposition that after all, if you give half the compensation to a workman or his dependants in those circumstances, it will hardly be compensation but that should be called by the name of compassionate allowance. It is said, if a compassionate allowance is to be given in this case, why not give similar allowance in the case of a man who is killed down in the bazar or on a highway? It is said that there is no difference between the two cases. Now, the difference is so obvious that I do not think I should trouble this Council seriously about it. Here, in this case the man is killed really because he is employed in doing certain work which involves considerable risks. No doubt, death or permanent disablement is caused owing to the negligence of the man, but if he were not employed in that dangerous trade or in the handling of that risky machinery, this accident would not have happened. That, I submit, makes all the difference between this accident and the accident occurring on a highway.

Then we are confronted with an argument which asks us to make no difference between these cases and the case of a man who is charged with the offence of murder. It is argued that if a man commits murder and is put on his trial and is hanged, should it be the duty of anybody to provide for his wife and children? The argument goes further and says, should the State or anybody else in the circumstances make it their business to provide for the wife and children of the man who has been murdered? It is said that since it is not their duty to provide for the

[Saiyid Raza Ali.]

wife and children of the murderer or for the wife and children of the man who has been murdered, it is no longer the duty of an employer to provide for the wife and children of the man who has been killed by an accident. The difference between the two cases seems to be so very vast that no very serious argument need be urged in controverting it. In the former case the man kills another deliberately. In the latter case, the man, in consequence of a mistake, kills himself while doing the work of his employer and therefore it should be the duty of the employer to provide for his wife and children.

After all, the principle underlying the whole Bill which is before this House is that an industry that creates risks for those who are employed in that industry should make compensation to those persons who are injured in consequence of being employed in that industry. That is the broad principle on which the whole edifice of this Bill that is before this House has been built. And I submit, Sir, that when an employer shirks his responsibility and refuses to make any payment in the case under discussion, he contravenes the principle that forms the basis of the whole Bill.

Before I conclude, I might just refer to the debate to which I casually referred in the earlier part of my speech. When the English Bill was before the Commons in 1906, the portion that I read out to this House was proposed by no less a man than Mr. Herbert Gladstone, the son of the great Prime Minister of England. He found supporters, staunch supporters among public men of the first rank. One of the supporters of this measure was Mr. F. E. Smith, the present Lord Birkenhead. It also appears that one of those who helped in the passing of this measure in favour of awarding full compensation to the workman or his dependants when the workman dies or is disabled, in consequence of his own wilful negligence, was no less a man than Mr. Daniel Rufus Isaacs, the present Lord Reading. It is, Sir, during his Viceroyalty that this measure is being introduced into this House. Among the authorities that I can quote on my side are to be found not only the illustrious son of a former illustrious Prime Minister, but the late Lord Chancellor of England and the present Viceroy of India. I hope that this House will give serious consideration to my amendment. It is not at all pretentious. In fact in the other House they tried to cast their net too wide. They wanted to give full compensation to the man or his dependants in case of death or disablement. On the other hand, I follow the original wording of the law, the law as originally proposed by Government

THE HONOURABLE SIR ALEXANDER MURRAY: May I rise to a point of order? Is the Honourable Member at liberty to refer to the other House regarding what took place there in connection with this Bill? (A Voice: "In this Session.")

THE HONOURABLE THE PRESIDENT: I thought the Honourable Member referred to the House of Commons.

THE HONOURABLE SIR ALEXANDER MURRAY: He referred to the Legislative Assembly.

THE HONOURABLE THE PRESIDENT: I did not know that Sir F. E. Smith was a Member of the Legislative Assembly!

THE HONOURABLE SAIYID RAZA ALI: I was not referring to anything to which I could not refer. Surely, it is open to me to refer to the result

of any debate in the other House. We are not trying to cast our net too wide. In fact, I have followed the original wording of the Bill. In the case of an unfortunate man who is killed or permanently disabled we propose to give not more than half the compensation to his wife or children. No doubt the present is an unequal contest. On the one side we have very influential and well-organized capital. On the other side we have this disorganized body of labourers. With these words I commend this amendment to the acceptance of the House.

The HONOURABLE THE PRESIDENT: Amendment moved:

"That in paragraph (b) of the proviso to sub-clause (1) of clause 3, before the words 'in respect of' the words 'except in the case of death or permanent total disablement, in either of which cases he shall be liable to pay half the compensation which he would otherwise have been liable to pay' be inserted."

That amendment is now before the House for discussion.

The HONOURABLE SIR ALEXANDER MURRAY: Sir, the Honourable Saiyid Raza Ali, in speaking to the motion that this Bill should be taken into consideration, stated that he appeared neither as an employer nor as a workman. While speaking to this particular amendment, he has told us and I am sure we have now all realised from his remarks that he is a lawyer by profession. Like every lawyer who has got a pretty bad case to bolster up, he referred to the authorities of bygone days. He referred in particular to what took place in the House of Parliament when the Workmen's Compensation Act of 1906 was under discussion. Now, anybody who has studied labour legislation at Home knows that a particular wave of public opinion passed over the United Kingdom at that time with results which many politicians now regret. Not only was the Workmen's Compensation Act passed or rather the amended Act as we now have it, but also the Trade Disputes Act and other legislation which people interested in labour problems are not very proud of to-day. As a matter of fact, if I remember aright, the particular clause to which he invited reference in the Home Act, that is section 1 (2) (c), was not in the original Workmen's Compensation Act of 1897 at all. It was one of the things drafted into the Bill during this wave of public opinion at Home and it is a much wider clause than the particular one we have now got to refer to. Before dealing with that, however, I would like to go back as a humble employer of labour to explain the position not from the lawyer's point of view but from the point of view of a practical employer and I hope a practical workman. As Mr. Raza Ali said himself, in his opening remarks, this Bill is an attempt to make the law as easy and as simple as possible for all concerned. No such provisions exist in the law as we now have it. I do not really know if there is any common law in India or not but in the common law at Home no provision exists for a workman getting any damages out of an employer for an accident unless he can prove negligence on the part of that employer. We start off therefore with the position that under the present law here no workman can get any compensation or damages or whatever you call it. Now, employers in the past have been in the habit of giving compensation to workmen who have been injured and to the dependents of workmen who have been killed but in these enlightened days these injured workmen and the dependents of deceased workmen consider that to be a charity and they say, "we no longer want charity, we want our rights". They insist that the law should be changed and legislation brought in to provide that in the case of accidents, no matter whether due to the negligence of

[Sir Alexander Murray.]

the employer or not, compensation should be paid. Employers on their side accept this as a fair proposition and they are prepared to accept responsibility for all accidents which they can be expected to prevent. The workman on his side says: "If you meet me to that extent, I am prepared to limit the amount of damages which I can claim from you" and under the present Bill as we have it before the House an attempt has been made for the employer to give away something and for the workman to give away something. Now, if you will refer to Chapter II, section 3 (1) of the Bill, you will find that the employer accepts responsibility but there is a proviso that he will not accept responsibility unless there has been total or partial disablement for a period exceeding ten days, with which we have all agreed, and then the proviso goes on to say that he will not accept responsibility in respect of particular injuries. Now, under the Home Act, the wording is entirely different. As the Mover of this amendment says, it is a much wider law than we have here and we had that in view in the Joint Committee when the matter was under discussion. The Home law refers to serious and wilful misconduct of the workman. We have dropped all that out in this Bill and we deal with three specific cases. Employers say "We accept responsibility for all accidents of every description, with the exception of these particular accidents, namely, injury to a workman resulting from an accident which is directly attributable to the influence of drink or drugs, wilful disobedience or wilful removal of special safety devices." Now, I think, that puts a workman in a favourable position. Having accepted responsibility, the employer has to pay in every case unless he can prove certain things. Under this particular clause the onus of proof rests upon the employer. It is not a mere matter of opinion. We have got to come forward before the Commissioner and prove that the workman was wilfully disobedient to an order, that a workman wilfully removed or disregarded a device or that he was under the influence of drink or drugs, the last a very difficult thing to prove in this country from my experience. It is also very difficult for the employer to prove that the workman has been wilfully disobedient or to prove wilful removal or disregard of safety devices. Now, that being so, I really think that the Mover of this Resolution was talking far too widely when he said that the employers wish to escape and get out of the liability that attaches to a manufacturing industry. There is give and take on both sides. We accept responsibility. The workman concedes certain things. We say that we will be responsible for accidents but will not be responsible if you deliberately do certain things and I personally think that it is most unreasonable on the part of anybody to expect that we should pay in such cases. The workman says: "We no longer want charity. We want to have rights." But I say that if a man deliberately does things contrary to orders he has no rights at all. He simply falls back again on charity. He cannot have it both ways and it is for this reason that I am strongly opposed to any consideration being given to this particular amendment. I shall therefore vote against it.

The HONOURABLE MR. C. A. INNES: Sir Alexander Murray has dealt in great part with arguments advanced by Mr. Raza Ali. There are one or two points which I wish to make. In the first place Mr. Raza Ali suggested that Government were estopped from opposing his amendment. I am afraid I cannot accept that statement. It is perfectly true that in the original draft of the Bill, we had a clause corresponding to the provision which Mr. Raza Ali wishes to insert. The Honourable gentleman has

failed to notice, as I explained most carefully when I introduced that Bill in the Legislative Assembly, that that Bill was introduced purely as a tentative and an experimental draft; we regarded it mainly as a basis for discussion, and I said that most carefully. We circulated that Bill to Local Governments and commercial bodies throughout the country, and now I must correct a misstatement which no doubt undesirably Mr. Raza Ali has made. He has quite correctly said that practically every employers' association in India strongly opposed this particular provision. He then went on to say that the Local Governments had not taken the same line. He suggested that only one Local Government referred to the provision at all, and that not in condemnatory terms. That statement, Sir, is entirely incorrect. Six of the eight principal Local Governments objected entirely to this particular clause, and the Local Government to which Mr. Raza Ali himself referred, namely, the Government of the Central Provinces, also objected to the clause. It is true that they made certain alternative suggestions in the event of their opposition being overruled, but that does not alter the fact that they objected to the clause. Naturally, Sir, when we find this consensus of opinion against us, not only among Local Governments but also among employers of labour, when we find that the Joint Committee—a particularly strong Joint Committee, if I may venture to say so—also objected to this clause, I think that the Government are certainly entitled to take the view that the clause should not be supported by them now. As a matter of fact when we first took up this question of workmen's compensation, we had no idea of introducing any clause of this kind; it was merely a suggestion thrown out in the July Committee and was adopted as a sort of compromise by that Committee. The only reason why we included it in our original Bill was that that Bill proceeded on the principle that in dealing with a difficult and controversial subject of this kind, the wisest plan was to follow the recommendations of the Committee as closely as possible. Now, Sir, I have dealt with that part of Mr. Raza Ali's case. After listening attentively to the rest of the speech, I must confess that I was unable to discover any very strong argument why we should accept his amendment. He had no agreement at all, so far as I could make out, except that the English law contained the provision. Sir, this part of his speech reminds me of a phrase in a lecture given to me by one of my Dons in Oxford which phrase stuck in my memory; that lecturer said that formerly people used to quote authority in order to stifle criticism; now-a-days the tendency is to quote authority merely in order to knock it down. Now, Sir, Mr. Raza Ali evidently dates from the older days since he is trying to quote authority in order to stifle criticism in this House. He has quoted to us provisions of the English law. It does not matter two straws to me what provisions there are in the English law on this point. What we want to know is whether those provisions in that law are such provisions as commend themselves to our sense of fairness and to our sense of logic; and I have never yet been able to discover any particular reason why the English Parliament included this particular clause in their Bill. I think the Honourable Sir Alexander Murray put his finger on the point when he said that at that time there was a wave of feeling across the country which led to the introduction into labour legislation of clauses which cannot be defended on grounds of reason. Mr. Raza Ali then proceeded to say that it was grossly unfair to penalize dependents of men for what he was pleased to call negligence. He said that the reason why a man who had been killed in the circumstances with which this clause is dealing should get compensation is that the man had been killed in an employment. I presume that his argument was intended to show

[Mr. C. A. Innes.]

that his death in that case was a risk of the industry. The whole theory of workmen's compensation is that we compensate people for risks of the industry. Now, as the Honourable Sir Alexander Murray has pointed out, we are not dealing here with risks of the industry. I ask this House, if a man gets drunk and then walks into a paper mill and if, by reason of that, falls into a digester, is that a risk of the industry? Of course not; he dies merely because he got drunk. It is grossly unfair that the employer should be called upon to pay any money at all to the dependents of that man. It is not a thing that the employer can guard against; it is no doubt very hard on the dependents of that man, but surely, the experience of this world is that whenever a man commits anything of that kind, gets drunk, commits a murder, it is his dependents who suffer,—and that is what happens in this case. Is that any reason why the employer should pay? I suggest not. I suggest, Sir, that in this Bill we are trying to do our best to be fair to workmen, on the one side, and to be fair to employers on the other. I suggest that it is not fair to make the employer pay compensation for accidents which *ex hypothesi* arise by wilful and serious misconduct on the part of the workman himself. That is the whole case against Mr. Raza Ali. It is unfair to make the employer compensate a workman for accidents which arise by the workman's own default and which the employer could never have prevented. One more argument, and I have done. As Mr. Chadwick has pointed out this morning, one of the main objects, one of the main reasons, why we have been encouraged to go along with this legislation is that we hope this legislation will ensure that employers will take more and more care for the safety of their workmen. Now, Sir, if we include the clause that Mr. Raza Ali suggests in this Bill, we destroy one of the incentives which we hold out to the employer. If the employer has to pay whether or not,—if he has to pay whether he has provided safety devices or not, if he has to pay even when those safety devices have been provided, well, we take away from him half the incentive to put in these safety devices. We do not give him any encouragement to make these rules and devices for safety, and we destroy in that way part of the utility of the Bill. As I pointed out, Mr. Raza Ali has got no argument at all in favour of this clause, except that it occurs in the English Act; and I have yet to find anyone who can explain to me with logic or good reason why that clause should have appeared in the English Act. We are legislating for India, not for England, and I submit that it is up to us to have a Bill suitable to the conditions of this country, and a Bill which accords with our own ideas of logic and reason. I hope, Sir, that this House will not accept this amendment.

THE HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I rise to oppose this amendment, not to support it as my friend says. The reason why I do so, Sir, is that a lot has been said on the clause, but this Bill has come here after being sifted in Committees and Councils of very able men. Now it has come here, and I hope that as the majority of the House is composed of about the ablest Members, this amendment will receive the same fate as it ought to receive, namely, that this amendment should not be accepted. Sir, everybody who is living must earn; he earns by keeping a shop in the Bazar, or ploughing or by various other things, and if a man goes to work at machinery, he goes there because he wants to get food in that way. The employer is getting him a living and doing him a great deal of service. If this man

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commits any mistake, he not only loses his own life but 100 or

200 more men may also be killed by an explosion of the Boiler and the property of the owner may also be destroyed. How much criminal it is to have so many men killed in addition to this man himself being killed? I would like here to refer to the fact that two students came to London where they did themselves well. They were driving a motor car which bumped into an obstacle and the man who was not driving told his companion who was driving, "You had better drive carefully". The other man thereupon said, "I thought all along that you were driving". If a man in such a mood goes and meets an accident, I don't think he deserves much consideration at the owner's hands. In the same way, Sir, if an employé who is on his way to the mill is run over on the way, I do not think the millowner is going to pay any compensation. He cannot say "I was going to the mill and it was only on the way that I got killed". A man roaming about the bazar may get killed. I do not think there is any difference between getting killed in the mill or anywhere else. On these considerations, Sir, I strongly oppose the amendment.

The HONOURABLE MR. PHIROZE SETHNA: Sir, in addition to the very powerful and cogent objections raised by the Honourable Mr. Innes to the amendment moved by the Honourable Saiyid Raza Ali, I may be allowed to add one more, and that is from an insurance point of view. I think it has been clearly laid down that the idea of Government is not to burden the industry any more than they can help and I would like to point out to the Honourable the Mover of this amendment that the inclusion of what he proposes would certainly enhance the premium rate and there is therefore greater necessity to drop it. My Honourable friend has said in very clear terms so far as I remember that he would have no sympathy with a man who wilfully and deliberately goes and harms a factory and thereby causes an accident, but it is only in case of what he calls "a mistake" that he will have any sympathy. Now, Sir, what he calls "a mistake" is a deliberate attempt on the part of the employee to harm himself and possibly harm others. He also went on to say that he cannot possibly conceive of anybody committing suicide by this means. If that is so, then he need have no apprehension in regard to the clause remaining as it is. And if he thinks that there might be a case or two of a man who for the sake of a few hundred rupees would like to commit suicide then I would ask him, what is the difference between a man committing suicide in this way and a man committing suicide by placing his head under a passing railway train. The dependants of the man who puts his head under the railway engine gets nothing whereas he wants the millowner in this case to be mulcted of a few hundred rupees.

The HONOURABLE SIR ARTHUR FROMM: Sir, like the previous speaker, I wish to make one point which has not been referred to by my Honourable friends who have got up before me. In his opening remarks the Honourable Mr. Raza Ali sought to make capital out of the fact that it was the employers who objected to any payment being made in connection with accidents arising out of the fact that the workmen were under the influence of drugs or had disobeyed the express orders issued for their safety and so on. He tried to make capital out of the fact that the objections came from employers; I think he called them capitalists. Well, of course, that was perfectly true. Who else did he think would object? Of course it was for the employers to object.

Earlier in the debate, Sir, I think the Honourable Member for Commerce remarked how gratifying it was to find that the employers had

[Sir Arthur Froom.]

accorded such a warm welcome to this Bill and I think my friend the Honourable Mr. Sethna said that not only had the employers received this Bill with a warm welcome but, in many instances, in their opinions on the Bill when it was circulated amongst them, they went a step further in favour of the workmen. They all very naturally objected to payments to men who were under the influence of drugs or who had disregarded precautions for their safety taken by their employers. Sir, I strongly oppose this amendment.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): Sir, I am sure that I will shock the feelings of many people here when I say that I heartily support the amendment moved by my Honourable friend Mr. Raza Ali. The interests of the landholders and of the capitalists are sometimes considered to be identical, especially in cases in which questions of compensation to labour and to workmen are involved, and it is this feeling especially which has created a bond of sympathy and created a kind of unholy alliance between these two people. Although in this Bill the interests of the landlords are in no way touched, but as a matter of fact the landlords think that in the near future perhaps the same fate will overtake them which they imagine is now overtaking the capitalists. Sir, I would appeal to the enlightened self-interest of both these classes and would urge upon them the necessity of treating questions like this in a sympathetic manner. Labour is not at present represented in this Chamber and when it does appear on the scene I think they will make the position of those who find themselves very strong in this Chamber very difficult, and I think that they must even now show by their attitude that even if labour is not represented in this Chamber, the Members will now as then work in an impartial manner and consider the interests of labour as though it is even now represented here. The Honourable Mr. Innes in his argument, while refuting the Honourable Saiyid Raza Ali, said that the labourer deserves no mercy (these were not exactly his words; I think he implied this in what he said) because he gets drunk and wilfully and deliberately misuses the machinery and brings the fate on himself. Well, Sir, we see that an Indian labourer, who is ignorant, who is half starved, whose wits are all scattered, goes to a workhouse where a highly elaborate machinery is working and he is asked to manage it. If such a person comes to grief and kills himself or injures himself, is he to deserve no mercy and get no compensation? Is there no idea of humanity or justice? When we see that he does not deliberately court death and bring misfortune on himself and his family, what should our conduct be in such circumstances? Do not the feelings of humanity clearly dictate that such a man must be treated generously? It is by such hostile feelings that a feeling of estrangement is created between capital and labour and it is exactly this feeling which in a country like India where the masses are poor will breed feelings of Bolshevism and absolute hostility against the capitalist class. There is in the Legislature, both in the Lower House and the Upper House, a strong representation of the capitalist class and I think both by their influence and by their capital they can kill the interests of labour, and as they have done in the lower House I fear the same thing may be repeated in this House. But we must face facts as they exist. We must look into the future. We must see what is going to happen with regard to labour in the world and especially in India. We must treat these questions in a sympathetic

manner and must be generous to the conditions of labour. All those enlightened people here, those specially who possess capital, may not be disposed to listen to these arguments, but I appeal to their enlightened self-interest and ask them to support the amendment which my Honourable friend Mr. Raza Ali has brought forward before the House. With these few words I strongly support the amendment.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I rise to oppose the amendment. In the Punjab in particular, the industries are in an infant stage and the workmen do not properly understand how to handle machinery and so accidents are frequent. In Bombay, Bengal and the other Presidencies, where the workmen have fully developed their common sense to understand the working of machinery, the mill-owners do not so much mind the introduction of this measure as we people of the Punjab do. But as this is rather a humanitarian measure we raise no objection to it. Being a millowner in the Punjab I may just relate one accident in my mills which happened a few years ago to illustrate how the Punjab labourer, being new to machinery, does meet with accidents. One of the mistries owing to some fault of his was punished by the engineer and this mistry out of spite took some scrap steel turnings and put them into a bearing of the second motion shaft and seeing the engineer coming and out of fear of being noticed concealed himself in a dangerous place in the Rope Alley where there was every possibility of his being killed. The instructions which are given by the manager or engineer are ignored by the workmen and the guards which are put on the gear wheels and various other places of danger are sometimes, as a matter of convenience, taken off and put aside. Of course, everybody likes to be generous but that can be done only as far as it is proper and permissible. I think this Bill as it has emerged from the Assembly is quite an adequate measure and we must wait for some time before we introduce such changes which cannot at present be borne by the employers in places where the industries are new and are undeveloped.

The HONOURABLE MR. LALUBHAI SAMALDAS: I need hardly say that I rise to oppose the amendment. My Honourable friend Mr. Raza Ali had an innings against capital. It is very easy to nag at it. Those who do not put their hands into their pockets to pay the labourers but merely want to spouse their cause with words can abuse other people, and can easily pose as friends of labour without really doing any good to labour.

The HONOURABLE SAIYID RAZA ALI: There was no word of abuse, if I may say so.

The HONOURABLE MR. LALUBHAI SAMALDAS: The speech of my Honourable friend Sir Zulfiqar Ali Khan who supported his amendment did credit to his heart which went out to the labourer. He spoke as a philanthropist, and as a humanitarian, but even he, unfortunately, said that there was an unholy alliance between the agriculturists and industrialists. If you wipe off the agriculturist from the country, and wipe off the industrialist also to break that alliance, what class is going to remain and thrive in the country? It is all very well to say that there should be no estrangement between labour and capital. What really brings on estrangement between the two sections is speeches like these in the House. To say that capital is opposed to labour is really doing the former a very great injustice and will only help to raise feelings of labour

[Mr. Lalubhai Samaldas.]

against capital. 'I know that my Honourable friend Sir Zulfiqar Ali Khan never meant it, but unfortunately his speech will have the effect of giving rise to bitterness between capital and labour. It must have been noticed that Honourable Members either representing labour or posing as friends of labour very often make remarks which lead other people to believe that they are the greatest friends of labour and that the capitalist wants to sweat labour, to harm labour, to injure labour and even to kill labour if possible. That attitude is really regrettable and I hope that in this House such speeches will not again be heard. With these remarks I would draw the attention of the Honourable Mover of the amendment and his supporter that the clause as it stands makes it quite clear that exemption from payment shall be given if the labourer suffers from an accident which is directly attributable—and I want to draw the attention of the Honourable Saiyid Raza Ali and the Honourable Sir Zulfiqar Ali Khan to the words "directly attributable" and also to the word "wilful" in sub-clauses (2) and (3). If a man wilfully does something to harm himself he cannot surely claim any compensation from his employer. He does deserve sympathy as my Honourable friend Sir Zulfiqar Ali Khan said. By all means help the man or his children by raising a humanitarian fund and I believe the employers of labour will be the first to contribute largely to the fund *pro rata*. If there is a fund we will be only too glad to put our money in that fund, but surely a man who wilfully does harm to himself has no claim as such on the employer of that man and that claim, if made, will be refuted. I hope that the House—I wanted to say unanimously—if not unanimously, at least by a large majority, will throw out the amendment.

THE HONOURABLE MR. D. T. CHADWICK: I propose that the question be now put.

The amendment was negatived.

Clause 3 was added to the Bill.

The Council adjourned for Lunch till Quarter to Three of the Clock.

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

THE HONOURABLE THE PRESIDENT: The Council will now proceed with the consideration of the Workmen's Compensation Bill.

Clauses 4, 5, 6, 7, 8, 9, and 10 were added to the Bill.

THE HONOURABLE MR. D. T. CHADWICK: Sir, there is an amendment in my name which with your permission I should like to alter slightly. The amendment as it stands reads:—

"that in sub-clause (3) of clause 11 of the Bill, after the word 'employed' the words 'without having been so examined' be added."

Instead of that I beg to move:

"that the words 'without having been so examined' be inserted after the word 'leaves', in sub-clause (3) of clause 11."

The sub-clause would then read :

"(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination."

Without the addition of these words the clause might be read to penalise a workman who was examined on the first day of the three days' notice and thereupon immediately left for his village, which, of course, would be absolutely against the sense of the Bill. Under the previous sub-clause a workman gives notice of an accident and then an employer can ask him to submit himself to a medical examination within three days. The original intention was that his right to compensation should be suspended if he did not submit himself to such examination. But of course if he submitted himself to that examination on the first day and then left there was no reason to suspend his right to compensation. The effect of the amendment is to protect the workman in such circumstances. I move the amendment, Sir.

The HONOURABLE THE PRESIDENT: The amendment now under discussion of the Council is:

"that in clause 11, sub-clause (3), the words 'without having been so examined' be inserted after the word 'leaves'."

The HONOURABLE MR. PHIROZE SETHNA: Sir, must I confine my remarks to the amendment which the Honourable Mr. Chadwick has just moved, or may I speak on the whole clause?

The HONOURABLE THE PRESIDENT: Not till this amendment has been disposed of. The only matter now before the House is this particular amendment.

The question is:

"that in sub-clause (3) of the clause under consideration after the word 'leaves' the following be inserted, namely:

'without having been so examined'."

The motion was adopted.

The HONOURABLE MR. PHIROZE SETHNA: May I now speak on the whole clause, Sir?

The HONOURABLE THE PRESIDENT: Certainly.

The HONOURABLE MR. PHIROZE SETHNA: Sir, it seems to me that the Joint Committee did not realize the full significance of this sub-clause (3) as it has been framed, inasmuch as the only punishment which a workman will be liable for if he goes away before submitting himself to a medical examination is that he will not get any compensation for the period that he is away. If he chooses to return, as I suppose he will, he will certainly be entitled to compensation for the period thereafter for which he is not able to work. The point that I want to make is this. A person who is injured may choose to go away to his native village; at the time of his going away the accident or injury which he has suffered may be very slight, so much so that had he chosen to remain and properly attended to, he might have been cured, or at any rate the consequences might not be so bad as those brought about by his going away for a time to his native village where perhaps he is

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absolutely neglected. In fact, a man might have a small cut on his finger and by neglect due to his going away from the place where he would have had the benefit of medical treatment, that cut might result in gangrene and perhaps necessitate the amputation of a limb. That, Sir, has not been fully realized by the Joint Committee, and the proper course to my mind would have been to lay down that a man who goes away before submitting himself to a medical examination should have no claim whatsoever; and I wonder, Sir, if I might be allowed at this stage to move an amendment.

The HONOURABLE THE PRESIDENT: Do I understand that the Honourable Member wishes to delete sub-clause (3)?

The HONOURABLE MR. PHIROZE SETHNA: What I want to say is that his right to compensate shall be "dropped" and not "suspended". That is, he will not be entitled to any compensation whatever.

The HONOURABLE THE PRESIDENT; I will put the sub-clauses in this form.

The question is:

"that sub-clauses (1) and (2) of clause 11 stand part of the Bill."

The motion was adopted.

The HONOURABLE THE PRESIDENT: That clears the question of sub-clauses (1) and (2). If I put sub-clause (3) separately to the Council, would not that meet your point? Sub-clause (3) is under consideration. No amendment has been moved; the Honourable Mr. Sethna, as I understand him, wants the deletion of sub-clause (3) altogether.

The HONOURABLE MR. PHIROZE SETHNA: I think, Sir, it will be an amendment if I move the deletion.

The HONOURABLE THE PRESIDENT: If that is all no amendment would be necessary and I will put it to the Council separately that sub-clause (3) stand part of the Bill.

The HONOURABLE MR. PHIROZE SETHNA: Rather than delete it, I would allow the sub-clause to stand and substitute the word "dropped" for the word "suspended" and end the sub-clause after the word "dropped".

The HONOURABLE THE PRESIDENT: If the Honourable Member means that the right to compensation should be "dropped", that means depriving the workman of the right of compensation. If the Honourable Member has any other proposal of a more limited nature to put before the Chair or the House I shall be glad if he would explain his point.

The HONOURABLE SAHYID RAZA ALI: I think, Sir, that my Honourable friend by substituting the word "dropped" for the word "suspended" will land himself in further difficulties because . . .

The HONOURABLE THE PRESIDENT: The Honourable Saiyid Raza Ali must bear in mind that at this moment there is no amendment before the House. He can speak on the question that sub-clause (3) stand part of the Bill, while the Honourable Mr. Sethna is considering his position.

The HONOURABLE SAIYID RAZA ALI: In the absence of any amendment, Sir, I can only deal with the general objection that has been taken. The question was carefully gone into by the Joint Committee of which the Honourable Mr. Sethna was a Member and having regard to the great hardship which a workman would be subjected to if out of sheer ignorance he left the place without having undergone a medical inspection and were therefore to be debarred from claiming compensation for all time it was decided that it would meet the wishes of employers if this medical examination was insisted upon and if the right to have the workman medically examined was given to employers. If the man refuses to have himself medically examined, he will have no right to any compensation for that period. That I take it, Sir, should meet the wishes of the employer. Mr. Sethna has in order to illustrate his point taken a very extreme case. That sort of objection can be raised in a number of cases of which this would be only one. Those who know anything about criminal cases will remember how a trivial injury may develop into an aggravated malady which might ultimately cause death, but surely the responsibility for that cannot be borne by the man who caused the injury. In the same manner I do not think that if a man leaves without having himself medically examined and his injury subsequently develops into a serious malady, it should subject him to the disadvantages of forfeiture of his compensation. I think the law as it is worded sufficiently safeguards the rights of the employer as well as of the workman.

The HONOURABLE THE PRESIDENT: Looking again at the proposal made by the Honourable Member, I think the method which I originally suggested will not meet his point. It would seem necessary to substitute the word "abrogated" for all the words commencing with the word "suspended" up to the end of the sub-clause. But before I allow this amendment to be moved I should like to hear whether the Government Benches desire to resist it on the ground of lack of notice,

The HONOURABLE MR. D. T. CHADWICK: Yes, Sir, we had no notice of this amendment and it is a vital amendment to the Bill.

The HONOURABLE THE PRESIDENT: I do not think I can uphold the objection and will allow it to be moved.

The HONOURABLE MR. PHIROZE SETHNA: For the reasons I have already explained I moved that in sub-clause (3) of clause 11, the word "abrogated" be substituted for the words "suspended until he returns and offers himself for such examination" at the end of that sub-clause.

The HONOURABLE SIR ALEXANDER MURRAY: This section is somewhat complicated and caused a good deal of trouble in the Joint Committee and also in the discussions of some months ago. To get to a proper understanding of the subject, we have to go back to clause 10 under which notice of an accident is necessary before a claim can really arise. Not only is a notice of an accident necessary but medical examination also is necessary to substantiate the accident and the claim. Under clause 11 (1) an employer is given 3 days within which to have the workman examined but under the Bill as it stands it is quite possible for the workman having suffered some injury, it may be a small injury or a serious injury, to file his notice and go away back to his own home wherever that may be. Now, in some of the jute mills in Calcutta, speaking of something with which I am familiar, the great majority of the workers, 60, 70 or even 80 per cent. of the

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workers come from Bihar and Orissa, from the United Provinces and from Madras and it is quite a common thing to have practically only 10 per cent. of the total labour force residing permanently in the immediate vicinity of the mill and another 10 per cent. or so some little distance away. Now, when an accident takes place, there is a natural inclination on the part of the workman to get back not only to his temporary lodgings in the vicinity of the mill but also to his permanent abode and to his wife and children who are probably up-country. We recognised this and in order to meet that an attempt has been made in this clause to meet all circumstances. When an accident takes place we are particularly anxious that a medical officer should examine the injured man before he leaves the immediate vicinity of the workers. We do not say that the man has got to stay there for all time until he gets better or worse but we do say that we ought to be given the opportunity of having him medically examined. Under this clause 11 (8) if a workman leaves the vicinity of the works and goes away up-country his right to compensation is suspended until he returns and offers himself for medical examination. Now, personally I would like to have some machinery for having a workman examined before he leaves the vicinity but I do think that the Honourable Mr. Sethna is going too far when he says that having gone away the workman should never have any right to compensation for his injury. I agree that the right to compensation should remain suspended until such time as he does return to be examined. It is quite true that gangrene or some other complication more serious may set in and it is for that reason we have endeavoured in the Bill to get the machinery tightened so that before the workman leaves the works he may be properly examined with a view to arrest any gangrene or put right the injury as quickly as possible. Now, Mr. Sethna suggests that this should be abrogated. It is inconsistent with the principle that has been already accepted at Home. In the debate this forenoon it is true it was stated that we are not prepared to accept everything that is done at Home but it so happens that this particular section is really a repetition of clause 4 of Schedule I of the Home Act. It also reads: "His right to compensation shall be suspended until such examination has taken place" and that is the wording here—"His right to compensation shall be suspended until he returns and offers himself for such examination". On a subsequent amendment which is to be moved by the Honourable Mr. Chadwick I shall have to say something more in this connection, but in the meantime I feel that we are not justified in saying that the mere departure of the workman up-country should abrogate the right to compensation for all time. It should certainly be suspended until he returns but should not be abrogated.

THE HONOURABLE MR. C. A. INNES: I should like to supplement with a few remarks what Sir Alexander Murray has just said. I should like to point out that the Honourable Mr. Sethna was a Member of the Joint Committee and that the Joint Committee left this part of the Bill in what I may venture to call a very much more unsatisfactory state than it is now. The Joint Committee of which I have said the Honourable Mr. Sethna was a Member left the Bill as follows: It provided that within 8 days after notice of an accident was given, if the employer offered to have the workman examined free of charge by a qualified medical practitioner, the workman should submit himself to such examination and the Bill left it at that. It did not say where the examination was to be and it did not say what the penalty for failure to submit himself for medical examina-

tion was on the part of the workman. Consequently when the Government examined the Bill after it came from the Joint Committee, we saw that there was a hole in the Bill there, and we devised, as Sir Alexander Murray has pointed out, on the lines of the English Act, the provisions which now appear as clause 3 of the Bill, where we provide that the workman must remain in the vicinity of the place of his employment for three days in order that if within that period the employer offers medical examination, the workman should submit himself to such examination. Now that is a great thing gained by the employer. And we also provide a penalty for the workman who disregards that instruction and leaves the vicinity of the place of his employment before he has submitted himself to such medical examination. I am quite prepared to admit that from the employer's point of view this right of calling upon the workman to submit himself to medical examination as soon as possible after notice of accident has been given is a very important right indeed. Accordingly we have stated that if the workman goes away without submitting himself to such examination, then that workman's right to compensation shall be suspended until he returns and so submits himself. Mr. Sethna has pointed out that a workman with a cut in his finger may go away from the vicinity of his employment, but owing to not being properly cared for by a qualified medical practitioner, that cut in the finger may set up gangrene or something of that kind. It is perfectly true, Sir, that in cases like that aggravation may set up, but we have provided in clause 11 (5) for this very contingency. We have provided for aggravation there. Well, the matter before the Council is whether the penalty we provide is severe enough. The Honourable Mr. Sethna says that if a workman goes away to his own home,—to his own home, mark you—without submitting himself to medical examination, his right to compensation must disappear altogether—should be abrogated. I am prepared to admit that it is a logical argument. On the other hand, the Council must remember that it is a very drastic suggestion indeed. We all know how the Indian workman is attached to his home, what strong tendency he has to return to his home as soon after he is injured as possible. I agree with Sir Alexander Murray that it would be too severe to impose a penalty that the man must lose his compensation altogether, and I hope that the Council will not agree to that suggestion. I think that at this stage, I may say, Sir, that this amendment has been rather sprung upon us, I think at this stage it would be very unfortunate if that amendment were carried. It would make a very vital alteration in the Bill, and I hope the Council will agree with the view which has been taken so far that the penalty provided in clause 3 of the Bill is in all the circumstances of the case sufficient, and I hope, Sir, the Council will not agree to this amendment.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan):

Sir, I strongly oppose the amendment. Throughout this morning we have been hearing that this Bill is a compromise. I did not intervene in the debate, though I was not satisfied with some of the provisions of this Bill, because, after all, the provisions have been arrived at after prolonged consideration and have been so framed as to meet both the employers and the employee. My Honourable friend's amendment practically takes away from the employee the chance of getting the compensation which it is the object of this Bill to give him. The employers in this country have to take Indian labour as it is. Labour in India is illiterate and

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backward, as we all are aware; the workmen do not understand their own interests, and, on account of their religious and social prejudices, are likely to go away, against their own interests, from the place where they are working, and in this way they are likely to lose all their compensation. In these circumstances, the Legislature has to take into consideration the facts of the situation, and has to stretch a point in favour of Indian labour. The employers themselves must feel sympathy for the workmen in this connection, and they cannot stand upon their logical rights. Logically, the employers may be right, but practically, I think, it would be a very great hardship to the employees for us to insist upon this amendment. I therefore oppose the amendment.

The HONOURABLE MR. PHIROZE SETHNA: Sir, I beg to ask for leave to withdraw my amendment, after the explanation which the Honourable Mr. Innes has given.

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

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move as an amendment that sub-clauses (4) and (5) of clause 11 of the Bill be re-numbered (5) and (6), respectively, and that after sub-clause (3) a new sub-clause be inserted. It is a little different from what has been placed on the notice paper, and with your permission I should like to substitute it.

The HONOURABLE THE PRESIDENT: Will the Honourable Member read it?

The HONOURABLE MR. D. T. CHADWICK: New sub-clause (4):

"Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased workman."

The HONOURABLE THE PRESIDENT: Does the Honourable Member consider that there is any change of substance, or is it merely a change in wording?

The HONOURABLE MR. D. T. CHADWICK: It is a mere change in wording, to bring out the intention of the amendment more clearly.

The HONOURABLE THE PRESIDENT: Then he may move it.

The HONOURABLE MR. D. T. CHADWICK: Under the sub-sections which we have just disposed of, a workman has the right to return and submit himself for examination—he may go away to his village and return provided he submits himself for examination. This clause is intended to meet the case of the workman who goes away and dies. It is highly undesirable that if the man who lives has rights under the Act, his relations and those who might benefit and others should lose all claim under the Act just because he happens to die. It does not make it compulsory on the Commissioner to order the employer to pay such compensation: it leaves it entirely to the discretion of the Commissioner who is appointed to deal with these matters; there may be extremely hard and harsh cases, and it is to meet those harsh cases that I now ask the Council to insert this clause. Also the Bill as drafted allows a man to go away but assumes he must live. It must be made clear what would happen if he dies.

The HONOURABLE THE PRESIDENT: To the clause under consideration amendment moved:

"That sub-clause (4) and (5) be renumbered (5) and (6), and after sub-clause (3) the following sub-clause be inserted:

'(4) Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.'

That amendment is now open to discussion.

The HONOURABLE SIR ALEXANDER MURRAY: Sir, I very much regret having to take exception to this amendment. As has been said more than once to-day, this Bill is in the nature of a compromise. The Honourable Mr. Kale has just said so, and the same thing was said this morning by other speakers. The compromise that we arrived at in the Joint Committee and that was approved of in another place is contained in the Bill before us; and I personally feel that it is good to leave well alone. In arriving at the stage that we are now in there has been some dissatisfaction, a great deal of negotiation and a good lot of give and take on both sides, and I personally feel that we are opening up the way for further discussion if we insert an amendment of this description. The acceptance of this amendment will necessitate going back to another place, and it does not necessarily follow that that other place will accept the amendment; nor does it follow that it will be satisfied even with that amendment, it may open up other points in connection with this particular clause. My objection to the proposed new sub-clause (4) is that under clause 11 (1) medical examination is provided. It is provided for in two cases—the first examination where the accident has just taken place, and where it is advisable that the employer should be given the opportunity of having the workman medically examined before he leaves for his home up-country. In the second place where the workman who is in receipt of half-monthly payments under the Bill shall submit himself for such examination as may from time to time be necessary. The re-submission for examination is provided for in the Bill and to that extent I have no objection to the proposed clause (4). That is to say, if a workman has once been medically examined, and then goes home, and at a future stage it is desirable to have him re-examined, I have no objection—I hope this will meet the Honourable Member—in a case like that to compensation being paid to the man's dependants in the event of his dying. But I do object to a workman who has had an accident filing a notice and leaving the same day or the next day or within three days and going home, which as far as Calcutta is concerned, may mean Madras, United Provinces or the Punjab. I do object to the workman filing a notice of the accident and going home without giving us an opportunity of having him medically examined.

The HONOURABLE THE PRESIDENT: Has the Honourable Member got an amendment on the paper to that effect?

The HONOURABLE SIR ALEXANDER MURRAY: No, Sir. I have not actually put forward an amendment, but with your permission and with the permission of the House, I wish to press for the consideration of the Honourable Member an amendment.

The HONOURABLE THE PRESIDENT: Of course these amendments have been on the paper for some days and had the Honourable Member wished to move an amendment to them, it was desirable that he should have formulated his amendment.

The HONOURABLE SIR ALEXANDER MURRAY: I very much regret, Sir, that owing to other preoccupations the amendments before us were not received by me until last night, and this particular amendment, although it does not materially alter the substance of the amendment of which we received notice, is certainly not the amendment of which notice was given last night. With your permission, therefore, and provided the Honourable Member opposite does not take any objection, I hope that I will be allowed to submit an amendment to the Honourable Member's amendment.

The HONOURABLE THE PRESIDENT: I should like to hear the Honourable Mr. Chadwick on this. I understand he is in charge of this Bill.

The HONOURABLE MR. C. A. INNES: May I give a word of explanation, Sir?

The HONOURABLE THE PRESIDENT: Certainly.

The HONOURABLE MR. C. A. INNES: I understand, Sir, that the amendment which the Honourable Sir Alexander Murray proposes to move is

The HONOURABLE THE PRESIDENT: Asked for leave to propose.

The HONOURABLE MR. C. A. INNES: has asked for leave to propose is to the effect that he would not object to the Commissioner directing payment of compensation to dependants of a deceased workman in the event of the deceased workman having refused to submit himself to medical examination, not the first medical examination, but the second or third medical examination.

The HONOURABLE SIR ALEXANDER MURRAY: That is so, Sir.

The HONOURABLE THE PRESIDENT: That is to say, there should be one medical examination.

The HONOURABLE SIR ALEXANDER MURRAY: That is my point, Sir.

The HONOURABLE MR. C. A. INNES: I do not think that that amendment will carry the House very far, and it is not worth making, because the Honourable Member is aware that the second, third and fourth examination is in the case of workmen who are in receipt of half-monthly payments, that is to say, they are men who are temporarily disabled by comparatively trivial injuries. The Honourable Member will see that clause 11 refers to the offer of medical examination to the workmen who are injured and it goes on to say:

"Any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time."

The subsequent medical examination is only in the case of workmen who are in receipt of half-monthly payments by reason of comparatively trivial injuries, and so, if I may put it to the Honourable Member, his suggestion does not carry the House particularly far.

The HONOURABLE SIR ALEXANDER MURRAY: May I, with your permission, move the amendment, Sir?

The HONOURABLE THE PRESIDENT: I should like to know from the Honourable Mr. Innes or any Member of Government whether they object to this amendment being moved, not on the ground that it is not a good amendment, but on the ground of want of notice. That is the point I wish to ask.

The HONOURABLE MR. D. T. CHADWICK: I do object, Sir.

The HONOURABLE THE PRESIDENT: I think, on the whole, that I must rule this proposed amendment out of order in the sense of lack of notice since objection is taken by Government. Of course it is open to the Honourable Member to vote against the whole clause, but inasmuch as Government stand on their rights, I think on this occasion I should not be justified in allowing the amendment to be moved. The Honourable Member (The Honourable Sir Alexander Murray) can speak on the merits.

The HONOURABLE SIR ALEXANDER MURRAY: Well, Sir, if I am not allowed to move the amendment as you have just ruled, I would like to take exception to the amendment now before the House. I feel, Sir, that we are actually inconsistent in putting forward an amendment of this description. We have provided in the Bill—as the Honourable Member himself said a few minutes ago—that the workman should stay for three days in the vicinity in order to allow us to have a medical examination. As I read the Bill—the Honourable Member will correct me subsequently if I am wrong—the workman is not bound to stay for three days in the vicinity of the mill. As I understand it, the workman might give notice within three days, and having given notice, might depart for up-country before we have had an opportunity of having him medically examined within three days, and I feel, Sir, this is absolutely inconsistent. For instance, this morning we were discussing another amendment put forward by the Honourable Mr. Raza Ali, and agreed that if a workman wilfully disobeys an order or wilfully does something that he ought not to have done, we ought not to meet him. Here we have a workman who also is not acting right and yet his dependants may get compensation. That is not the spirit in which the Bill has been framed nor is it the spirit in which it was discussed in the Joint Committee. I say that if a workman suffers an accident and gives us notice, we have three days in which to examine him and he ought not to be allowed to leave for up-country until examined. But having gone up-country in spite of the provision which is made for his medical examination, I maintain that until he is medically examined his right to compensation should be suspended. As the Honourable Member said a moment ago in reply to the Honourable Mr. Sethna, we took the principle of the English Act in this particular case. We used actually the words in the English Act. And I should like to point out that clause 4, Schedule I of the English Act provides that the right to compensation shall be suspended “until such examination has taken place.” But clause 20 of Schedule I of the same Act says, that:

“Where under this Schedule a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.”

It is agreed, I take it, that until he is medically examined, not only his right to compensation and to take proceedings is suspended, but he

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also forfeits all compensation in respect of the period of suspension. The whole theory of the Act at Home shows that so long as he absents himself from medical examination, so long his rights under the Act are suspended, and he only revives that right when he submits himself for medical examination. I was proceeding to say a moment ago that I am prepared to accept that principle so far as the second examination or the third or fourth examination is concerned, but as regards the first examination, I think it is unfair to the employer and it is unfair to the workman himself that he should be permitted to go up-country without being medically examined. We all know how long annuitants live. If we give an annuity to a man, he will live for a long time. I believe it has been the experience—certainly it has been my experience—that where an old man in our employment has been given an annuity, he lives on for a long time because it is in the interests of all concerned to keep the annuity alive. But where an old man has been given a lump sum of money and goes home, it is nobody's interest to keep that man alive, and I can give comparative figures showing that where there is an interest in the family to keep the old man alive, he lives long, and where there is no interest, having received a lump sum of money, he may die soon. What is to be the result in this particular case if the amendment proposed is given effect to? In effect, it means that the workman may immediately run away up-country, after giving notice but before he has given an opportunity of being medically examined. There is really no interest except the ordinary interest of relationship to keep the man alive because the relations will get a lump sum whenever he dies. It is quite true it is in the discretion of the Commissioner and I take it that the Commissioner will not in all cases direct compensation to be paid. I would like to provide what I have been unable to move in an amendment; what I wish to propose is that so far as the first examination is concerned it ought to be compulsory. The workman or his dependants ought not to be entitled to compensation until such time as he has been medically examined. Our intention really was—I think it was the intention—that the man would be examined, but so far as I can find out, that has not been provided for. For that reason I oppose the amendment as it is now before the House.

The HONOURABLE SIR ARTHUR FROMM: I agree with my Honourable friend Sir Alexander Murray. The intention when this clause was discussed in Joint Committee was that the man should be medically examined. When the Bill was first introduced the period for examination was seven days and we thought that that was too long to keep a man within the vicinity of the place where he had the accident. We reduced it to three days, and our idea in reducing it to three days was that of compelling him to remain within the vicinity of the place where the accident happened, as I have said we decided that seven days was too long to keep a man there when he would be wanting to go away to his country. The Honourable Mr. Sethna has recently withdrawn the amendment he put forward in connection with a man who did not present himself immediately for medical examination but left for his home, came back, and was examined afterwards. If we accept the amendment put by the Honourable Mr. Chadwick, what is the position? An accident has occurred, the man runs away to his country, the employer loses sight of him, and knows nothing more about him and there is no time limit. He may die six months hence,

he may die of something totally different from the effect of the accident, and a claim is received that he died from the result of the accident which happened perhaps six months previously, during which period the employer has had no trace of the man. I am not arguing this against the interests of the employee or the workman. I think Honourable Members will bear me out that I have always supported everything in fairness for the workman, but I put to them that this amendment is seeking to place too great a liability on the employer. I have no doubt that the Honourable Member in charge will say that after all it is left to the discretion of the Commissioner. But I do not think we should place the Commissioner in that position. I do not think we should give him discretion in these cases. This amendment is immediately in contradistinction to what we have been discussing. It has been agreed that a workman's compensation, when he runs away without medical examination, should be suspended, but that as soon as he comes back to be medically examined then he is entitled to claim compensation; we agreed to this, though, as I have said, it was the intention of the Committee when they reduced the period during which a man should present himself for medical examination—reduced from seven days to 3 days—that he should remain in the vicinity where he was injured and undergo medical examination. I cannot support this amendment. I think it is placing too great a liability on the employer. All trace of the man is lost. He has a minor accident, disappears up-country, it is not known what happens to him, he may die some time afterwards, he may die of the accident or from the result of the accident, or he may die from a totally different cause, but if he does die, whether it was as a result of the accident or from a totally different cause, I feel sure there would be a claim for compensation against the employer. I recommend to Government to drop this amendment altogether.

(At this point the Honourable Mr. Innes rose.)

THE HONOURABLE THE PRESIDENT: I would ask the Honourable Member (the Honourable Mr. Innes) whether he has not already spoken on the merits of this amendment?

THE HONOURABLE MR. C. A. INNES: I was trying to meet a further amendment which the Honourable Sir Alexander Murray wanted to move.

THE HONOURABLE THE PRESIDENT: I would draw the Honourable Member's attention to the danger of speaking to the merits on a point of order. But he may speak again.

THE HONOURABLE MR. C. A. INNES: The Honourable Sir Alexander Murray suggested that I was going back on a compromise and he said that the wisest course was for this Council to stick to the terms of that compromise. I am prepared to take up that point and I am prepared to show that I am not going back in any way upon a compromise. As I have said before, when this Bill left the Joint Select Committee, we left it in the position that "where a workman has given notice of an accident, he shall, if the employer within three days offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination." Sub-clause (2) as it emerged from the Select Committee then went on to say:

"If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner.....his right to compensation.....shall be suspended until such examination has taken place, unless in the case of refusal he was prevented by any sufficient cause from so submitting himself."

[Mr. C. A. Innes.]

All we have done in the Bill which is now before the Council is to clarify the position which the Joint Committee's report had left obscure. We have made it clear that the workman must remain in the vicinity of the place of his employment until he has submitted himself to an examination if that examination is offered by the employer. We have also said that if he leaves the place of his employment without submitting himself to such examination his right to compensation shall be suspended. All we are trying to do in this particular amendment is to try and provide for hard cases which may arise. It has been put to us and it has been put to us strongly that you may have the case of a man who falling very ill goes off at once to his native place. It has been put to us that the Indian workman lays very great stress on being allowed to die in his own native place and it has been suggested to us that if a workman, severely injured in the course of his employment, goes off at once after giving notice of the accident, and dies there, this clause would operate hardly. We have tried to provide for what has been represented to us to be a very real hardship, by giving the Commissioner power in cases like that to give compensation. The Commissioner will not give compensation in every case. He will naturally require proof that the injury did take place, he will naturally require proof that the injury was not aggravated by the man's absence, or by the man's leaving the vicinity of the place of his employment before a medical examination took place. I say, Sir, that we have not departed in any way from the compromise. If we did depart from the compromise, we departed from it in the interests of the employer that we should clarify these clauses by moving amendments in another place. I hope the House will see that this amendment is a reasonable amendment and is intended to meet cases which may be really hard cases.

The HONOURABLE MR. PHIROZE SETHNA: I am afraid I am not satisfied with the explanation given by the Honourable Mr. Innes. If sub-clause (3) of this Bill made it easy for an injured person to go away without a medical examination, sub-clause (4) makes it still easier. Clause (3) enables a man to go away and the only punishment that is meted out to him is that he will not be entitled to compensation for the period that he is away. Clause (4) however makes it very easy for him, so that if he goes away and the injury gets worse and he dies his dependants get full compensation, and nothing less. Therefore, Sir, these two clauses, the one which has just been passed and the one which is now under consideration are if anything, an incentive to the workman to avoid medical examination in the first place and to go away to his native country as soon as he possibly can. On the other hand, if Government withdraw this new clause (4), or the House throws it out, then I shall not be sorry for having withdrawn my previous amendment, because if clause (4) does not stand, the workman will realize that if he goes away and as a result of his going away he dies, then his dependants get nothing. I do hope, therefore, Sir, that the Government will consider this from the point of view I am placing before the House.

There is still one other point of view which I would like to place before the House and that is in regard to insurance. If the proposed latitude is allowed to a workman to go away when he pleases and not to submit himself to medical examination and to consequent proper medical treatment immediately after the injury, the insurance authorities will hold that in nine cases out of ten the position of the injured person will become much worse

for want of proper medical aid in his native village, and consequently they will be fully justified in charging a higher rate of premium than they would otherwise do.

The HONOURABLE MR. V. G. KALE: Sir, I support the amendment and my reasons for doing so are the same as I gave on a previous occasion. We are not taking into consideration the mentality of the Indian labourer when we try to apply to him certain standards which may be enforced in the case of educated classes or workmen in western countries. Our friends here say that the workman should remain in the vicinity of the place of his work to be medically examined and should not go away up-country. But those who understand the frame of mind of workmen, know how strong a prejudice sometimes they have against remaining in a certain place to which you want to confine them. They would sometimes rather sacrifice their lives than remain if you compel them to remain in a certain place. After all, what does this amendment do? It only gives discretion to the Commissioner. In certain circumstances, if he is satisfied that there is sufficient ground for the payment of the compensation, then and then only that compensation will be allowed. Employers need not be unnecessarily frightened at having to pay any large amounts of money. The cases in this connection will be very rare.

My friend on the left is interested in premiums and insurance, but I do not think that the payments that employers will have to make will be increased on these grounds, and only a very few cases will arise in which compensation under this clause will be given at the discretion of the Commissioner. Therefore, in the interests of the working classes, ignorant and unorganized as they are, I think the amendment should be accepted.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I think the amendment proposed by the Honourable Mr. Chadwick is most reasonable and is based on justice and equity. What it provides is that if a workman leaves the place of his employment and while in his country dies there, then the compensation shall be given to his heirs and dependants. It seems to me that this power will rest at the discretion of the Commissioner and therefore the employers should not be afraid of this power. I strongly support the amendment.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, I rise to support the amendment. I want to ask one question, but before asking that, Sir, I would like to refer to sub-clause (3) in which it is laid down that if a man goes away without medical examination he is liable to be penalised in so far as he will not receive compensation during the period of his absence. Under the proposed new clause (4) he is not penalised to any extent unless the words "direct the payment of compensation" mean that the Commissioner shall have power to pay as much compensation as he thinks fit after inquiring into the merits of the case. If that is the meaning of the clause, I have nothing more to add. Otherwise I would suggest a verbal alteration, namely, that the words "within the limits prescribed by the Act direct payment of so much compensation as he thinks fit" may be substituted for the words "if he thinks fit, direct the payment of compensation." I would like the Honourable Mr. Chadwick to say whether he has any objection to my moving that amendment.

The HONOURABLE MR. D. T. CHADWICK: I have no objection whatever to that amendment.

The HONOURABLE THE PRESIDENT: I do not think that Government can take the line of objecting on ground of lack of notice to one amendment and offering to accept another to the same sub-clause.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to support my Honourable friend Sir Alexander Murray. He has explained the case fully and I need not take up any more of the time of the Council to elaborate it any further. In the Punjab in particular the workmen do not realize the advantages of proper medical treatment, and in case this amendment proposed by the Government is accepted, the employers will be put to a further liability. I therefore oppose the amendment.

The HONOURABLE SAIYID RAZA ALI: Sir, I have been used to the spectacle of a steady flow of sympathy from the Government Benches to this side. That is not a new thing. But this afternoon I have been watching a similar flow from capitalists and employers towards labour in the course of this debate. Many Honourable Members who are employers of labour have said that they are very much in sympathy with labour, yet when it comes to a practical proof of their sympathy, I do not see any very strong signs of it. The fact is that labour in this country is very ignorant. But it is much cheaper also than it is in western countries. If that is so, as Professor Kale put it, you have to take labour with all its limitations

The HONOURABLE THE PRESIDENT: The Honourable Member must really get closer to the amendment.

The HONOURABLE SAIYID RAZA ALI: I am just speaking to the amendment. Objection is taken that if a labourer feels inclined to visit his home it may be that he will go off there without undergoing medical inspection and that in that event it is rather unfair to employers to be called on to pay compensation. My submission is that it is purely a discretionary power which is given to the Commissioner. It would seem that capital, which has never trusted labour, is striving to raise a suspicion against the Commissioner himself. The Commissioner is not bound to support the application of the labourer. In these circumstances it seems to me that my Honourable friend has no reason to doubt the integrity of the Commissioner and he may as well leave the case in his hands.

As to the last suggestion made by Mr. Lalubhai Samaldas, my interpretation of the amendment before the House is, Sir, that the words "direct payment of compensation" do not mean the payment of the full amount of compensation and not a pie less. In fact, it would be open to the Commissioner to pay the compensation either in full or in part as he deems under the circumstances of the case reasonable. Therefore my Honourable friend Mr. Lalubhai need be under no apprehensions on that score.

The HONOURABLE MR. D. T. CHADWICK: Sir, I only want to take up one point and that is the one raised by the Honourable Mr. Sethna in regard to insurance. After all the House will realize that this relates to cases of men who die, and not every man who leaves his employment and goes to his village necessarily dies. The number of cases are not likely to be very numerous. So far as the insurance is concerned, they will form, I venture to suggest, a very small proportion of the number of accidents which are likely to be covered under this Act

The HONOURABLE MR. LALUBHAI SAMALDAS: Is the Mover of an amendment entitled to a reply?

The HONOURABLE THE PRESIDENT: Of course not. I am glad to see that the Honourable Members are alive to points of order.

The HONOURABLE THE PRESIDENT: The question is:

"That sub-clause (4) and (5) of clause 11 of the Bill be renumbered (5) and (6) and that after sub-clause (3) the following sub-clause be inserted:

'(4) Where a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) dies without having submitted himself to medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependents of the deceased workman'."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 11, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 12, 13, 14, 15, 16, 17 and 18 do stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I beg to move:

"That to sub-clause (2) of clause 19 of the Bill the words 'or to enforce any liability incurred under this Act' be added."

Under certain sections of this Act the employer and the workman can come to an agreement, especially in the cases in which a workman is receiving half-monthly payments. Section 8 (5), which I would ask Honourable Members to look at for a moment, prevents the workman from going to a civil court for damages, but according to the Bill as at present drafted, no machinery is provided for aiding him to enforce an agreement such as that described which he has come to. This amendment empowers the Commissioner to enforce it. The whole idea of the Act is to prevent the workman from going to a civil court and to prevent the civil court from interfering to enforce a liability incurred solely under this Act. That duty will devolve upon the Commissioner.

The HONOURABLE THE PRESIDENT: The question is:

"That to sub-clause (2) of clause 19 of the Bill the words 'or to enforce any liability incurred under this Act' be added."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 19, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 20, 21, 22, 23, 24, 25, 26 and 27 do stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: I beg to move:

"That clause 28 of the Bill be renumbered as sub-clause (1) of clause 28 and to the said clause the following sub-clause be added, namely:

'(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force'."

This amendment follows the amendment which I have just brought to the notice of the House. Section 28 (1) deals with registration of these agreements and we wish to make these valid and enforceable under this Act and this Act alone. One of the clauses of the Indian Contract Act reads:

"Every person is competent to contract who is of the age of majority according to the law to which he is subject and who is of sound mind and who is not disqualified from contracting by any law to which he is subject."

We have taken 15 as the age at which a minor becomes an adult for the purposes of this Act while under the Contract Act 18 would be the correct age. Under this present Bill a workman aged 16 could make an agreement with his employer. That agreement must be a valid one and enforceable under this Bill. We do not want those between the ages of 15 and 18 to be debarred from making such a contract or agreement as they would be if this clause of the Indian Contract Act were still held to rule the present Bill. That is the main reason for bringing in this amendment.

The HONOURABLE THE PRESIDENT: The question is:

"That clause 28 of the Bill be renumbered as sub-clause (1) of clause 28 and to the said clause the following sub-clause be added, namely:

'(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force'."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 28, as amended, do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clauses 29 and 30 do stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: I beg to move:

"That in clause 31 of the Bill, after the words 'under this Act' the following words be inserted, namely:

'whether under an agreement for the payment of compensation or otherwise'."

This is a verbal and consequential amendment following the one which the House has recently adopted, for making these agreements between employers and workmen enforceable under this Act. Means, however, have to be provided for collecting any sum due in enforcing such agreements. This amendment permits that.

The HONOURABLE THE PRESIDENT: To the clause under consideration amendment moved:

"That after the words 'under this Act' the following words be inserted, namely: 'whether under an agreement for the payment of compensation or otherwise'."

That question is now under debate.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 31, as amended, clause 32, clause 33, and clause 34 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule I stand part of the Bill.

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: Sir, I wish to move:

"That for clause (iii) of Schedule II the following be substituted:

'(iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act'."

The House will remember that it was very recently that we passed a new **Indian Mines Act** consolidating our old Act; at present in this Bill the references are to the old Act. This amendment substitutes references to the new Act.

The HONOURABLE THE PRESIDENT: To the Schedule under consideration amendment moved:

"For clause (iii) the following be substituted, namely:

'(iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act'."

It ought to be "or"?

The HONOURABLE MR. C. A. INNES: 'Or in any mine'—clause 3 has been deleted.

The HONOURABLE MR. D. T. CHADWICK: Yes, Sir, if you please.

The motion was adopted.

HONOURABLE MR. D. T. CHADWICK: In clause (vi) (b) of the same Schedule, I beg to move this amendment:

"That after the words 'and is' the words 'has been' be inserted."

As amended, it will then read as follows:

"A building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been, or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof."

As it is at present, if a building is designed to be not less than 20 feet and in the course of erection a workman suffers an accident whilst the building was only 15 feet high, he would have a right to compensation. But if such a building were being pulled down and the accident happened when it was only about 15 feet, we are advised that without the words "has been" being inserted, the man would lose his right to compensation. That contradiction is ridiculous. This amendment remedies it. Sir, I move to insert the words "has been".

The motion was adopted.

The HONOURABLE MR. D. T. CHADWICK: I wish to move:

"That for clause (vi) (c) the following be substituted, namely:

'(c) a bridge which is, has been, or is designed to be more than fifty feet in length.'"

This is a purely verbal one, and is intended to make the wording in regard to bridges similar to that used in regard to buildings.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule II, as amended, stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule III stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that Schedule IV stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: I understand that the Honourable Member does not wish to make the motion that the Bill be passed.

The HONOURABLE MR. D. T. CHADWICK: I would like to defer that, Sir.

The HONOURABLE THE PRESIDENT: I think the rest of the business might stand over.

The Council then adjourned till Eleven of the Clock on Wednesday, the 21st February, 1923.