

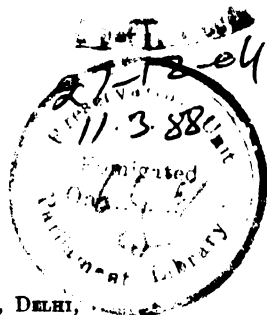
THE COUNCIL OF STATE DEBATES

VOLUME I, 1938

(14th February to 8th April, 1938).

THIRD SESSION OF THE FOURTH COUNCIL OF STATE, 1938

Member designated... 18/4/38



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CONTENTS.

PAGES.

Monday, 14th February, 1938—

Members Sworn	1
Questions and Answers	1—33
Information promised in reply to questions laid on the table	33—62
Messages from His Excellency the Governor General	62—63
Committee on Petitions	63
Congratulations to recipients of Honours	63—64
Governor General's Assent to Bills	64
Bills passed by the Legislative Assembly laid on the table	64—65
Message from the Legislative Assembly	65
Death of Sheikh Mushir Hossain Kidwai	65
Presentation of the Railway Budget for 1938-39	65—72
Standing Committee for the Department of Education, Health and Lands	72
Standing Committee for the Department of Commerce	72—73
Statement of Business	73

Thursday, 17th February, 1938—

Member Sworn	75
Questions and Answers	75—80
Death of Sir Prabhshankar Pattani	80
Information promised in reply to questions laid on the table	80—81
Standing Committee for the Department of Labour	81—82
Repealing Bill—Considered and passed	82
Dangerous Drugs (Amendment) Bill—Considered and passed	82—83
Insurance Bill—Further amendments made by the Legislative Assembly agreed to	83—93
Indian Companies (Amendment) Bill—Considered and passed	93—96
Standing Committee for the Department of Education, Health and Lands	96
Standing Committee for the Department of Commerce	96

Friday, 18th February, 1938—

Questions and Answers	97—98
General Discussion of the Railway Budget, 1938-39	98—146

Monday, 21st February, 1938—

Member Sworn	147
Questions and Answers	147—159
Resolution re Indians in British Guiana—Adopted	159—166
Cutchi Memon Bill—Motion to refer to Select Committee, adopted	166—167
Resolution re military training for Indians—Negatived	167—179
Criminal Procedure Code Amendment Bill (Jury trial in seditious cases)— Motion to consider, negatived	179—187
Durgah Khawaja Sahib (Amendment) Bill—Considered and passed, as amended	187—190
Standing Committee for the Department of Labour	190

Thursday, 24th February, 1938—

Questions and Answers	191—194
Ruling <i>re</i> impropriety of premature publication of questions and resolutions	194—197
Information promised in reply to questions laid on the table	197
Transfer of Property (Amendment) Bill—Introduced	198
Resolution <i>re</i> stabilisation of the price of wheat, cotton, etc.—Negatived	198—214
Resolution <i>re</i> increase in number of cadets admitted to the Indian Military Academy, Dehra Dun—Negatived	214—234
Resolution <i>re</i> Indo-British Trade Agreement—Moved	234
Statement of Business	235

Saturday, 26th February, 1938—

Cutchi Memon Bill—Presentation of the Report of Select Committee	237
Presentation of the General Budget for 1938-39	237—245

Wednesday, 2nd March, 1938—

Member Sworn	247
Questions and Answers	247—261
Ruling <i>re</i> Supplementary questions	261—267
Information promised in reply to questions laid on the table	267
Bill passed by the Legislative Assembly laid on the table	267
Standing Committee for Roads, 1938-39	267—268
Manceuvres, Field Firing and Artillery Practice Bill—Considered and passed	268—272
Destructive Insects and Pests (Amendment) Bill—Considered and passed	272—273
Resolution <i>re</i> Draft Convention and Recommendations relating to safety in the building industry—Adopted	273—278

Friday, 4th March, 1938—

Questions and Answers	279—283
Standing Committee on Emigration	283
General Discussion of the General Budget for 1938-39	284—307

Monday, 7th March, 1938—

Questions and Answers	309—318
Bill passed by the Legislative Assembly laid on the table	318
Resolution <i>re</i> Indo-British Trade Agreement—Withdrawn	318—344
Cutchi Memon Bill—Considered and passed, as amended	344—346
Child Marriage Restraint (Amendment) Bill—Considered and passed	346—354
Muslim Dissolution of Marriage Bill—Introduced	354
Resolution <i>re</i> construction of a railway between Dacca and Aricha—Withdrawn	354—359
Motion <i>re</i> amendment of the Standing Orders—Disallowed	359—360
Standing Committee on Emigration	360
Standing Committee for Roads, 1938-39	360

Thursday, 10th March, 1938—

Member Sworn	361
Questions and Answers	361—366
Resolution <i>re</i> distribution of Defence expenditure between the land, sea and air forces—Negatived	366—383
Resolution <i>re</i> reduction in Defence expenditure—Negatived	383—401

Thursday, 10th March, 1938—contd.

Resolution <i>re</i> establishment of a Supreme Court of Criminal Appeals— <i>To be continued</i>	401—406
Statement of Business	406—407

Thursday, 17th March, 1938—

Member Sworn	409
Messages from His Excellency the Governor General	409
Indian Finance Bill, 1938, laid on the table	410

Monday, 21st March, 1938—

Questions and Answers	411—441
Information promised in reply to questions laid on the table	441—442
Bills passed by the Legislative Assembly laid on the table	442
Resolution <i>re</i> establishment of a Supreme Court of Criminal Appeals— Withdrawn	442—456
Resolution <i>re</i> surcharge on railway freight on coal—Negatived	456—462
Resolution <i>re</i> Government recruitment and unemployment—Withdrawn	462—481
Statement of Business	481

Tuesday, 22nd March, 1938—

Questions and Answers	483—489
Central Advisory Council for Railways	489—490
Indian Finance Bill, 1938—Considered and passed	490—499

Wednesday, 23rd March, 1938—

Member Sworn	501
Questions and Answers	501—502
Indian Tea Control Bill—Considered and passed	502—503
Workmen's Compensation (Amendment) Bill—Considered and passed, as amended	503—507
Standing Committee for Roads	507
Central Advisory Council for Railways	507—508
Statement of Business	508

Friday, 1st April, 1938—

Members Sworn	509
Questions and Answers	509—518
Congratulations to the Honourable Sir Thomas Stewart on his appointment as Officiating Governor of Bihar and to the Honourable Mr. A. G. Clow on his appointment as Officiating Member of the Governor General's Executive Council	519
Presentation of a mace to the Council of State by the Honourable Maharajadhiraja Sir Kameshwar Singh of Darbhanga	519
Information promised in reply to questions laid on the table	520
Statement laid on the table	520
Bills passed by the Legislative Assembly laid on the table	520—521
Messages from the Legislative Assembly	521
Standing Advisory Committee for the Indian Posts and Telegraphs Department	521
Trade Disputes (Amendment) Bill—Considered and passed, as amended	521—543
Hindu Women's Rights to Property (Amendment) Bill—Considered and passed	543—547
Central Advisory Council for Railways	547—548

Monday, 4th April, 1933—

Member Sworn	549
Questions and Answers	549—565
Information promised in reply to questions laid on the table	565
Standing Advisory Committee for the Indian Posts and Telegraphs Department	566
Central Advisory Council for Railways	566
Resolution <i>re</i> declaration of the birthdays of Guru Nanak Dev and Guru Gobind Singh as holidays—Negatived	566—567
Resolution <i>re</i> subjection to income-tax of the interest on sterling loans and pensions paid from Indian revenues—Negatived	567—585
Resolution <i>re</i> discrimination against Indians settling in the Highlands of Kenya—Adopted	585—593
Resolution <i>re</i> formation of a national army recruited from all classes and provinces—Negatived	594—606
Indian Succession Act (Amendment) Bill—Motion to refer to Select Committee, adopted	606
Statement of Business	606—607

Thursday, 7th April, 1933—

Member Sworn	609
Questions and Answers	609—613
Bills passed by the Legislative Assembly laid on the table	613
Message from the Legislative Assembly	614
Sugar Industry Protection (Temporary Extension) Bill—Considered and passed	614 —616
Sind Salt Law Amendment Bill—Considered and passed	616 —617
Indian Coffee Cess (Amendment) Bill—Considered and passed	617
Standing Advisory Committee for the Indian Posts and Telegraphs Department	618

Friday, 8th April, 1933—

Questions and Answers	619—623
Information promised in reply to questions laid on the table	623
Statement laid on the table	624—665
Standing Advisory Committee for the Indian Posts and Telegraphs Department	666
Indian Tariff (Amendment) Bill—Considered and passed	666—667
Trade Disputes (Amendment) Bill—Considered and passed	667
Delhi Joint Water Board (Amendment) Bill—Considered and passed	668
Child Marriage Restraint (Second Amendment) Bill—Considered and passed	668—689

COUNCIL OF STATE.

Friday, 8th April, 1938.

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

QUESTIONS AND ANSWERS.

RETURN TO INDIA OF MR. M. A. NADEKAR.

306. THE HONOURABLE MR. B. N. BIYANI: (a) Is Mr. M. A. Nadedkar, a resident of Indore (Central India) prohibited from entering India by the Government of India?

(b) If so, do Government propose to remove the ban on his entry?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) and (b). I would invite the attention of the Honourable Member to the reply given in the other House on the 27th August last to parts (a) and (b) of Mr. Mohan Lal Saksena's question No. 160.

PENETRATION OF JAPANESE GOODS INTO AFGHANISTAN.

307. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (on behalf of the Honourable Raja Yuveraj Datta Singh): (a) Are Government aware that Japanese goods are penetrating into Afghanistan, and gradually displacing Indian goods in that country?

(b) Is it proposed to bring in review the trade and commercial relations between India and Afghanistan through a conference or otherwise, so that Indian trade interests may not suffer in that country?

THE HONOURABLE MR. H. DOW: (a) Government are aware that certain classes of Indian goods have to meet competition from Japanese goods in the Afghan market.

(b) The Honourable Member's attention is invited to the reply given to question No. 109 on the 21st February, 1938.

INDIAN TRADERS IN AFGHANISTAN.

308. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA: (a) Is an Indian trader, before he can proceed to Afghanistan on his passport, required to furnish two sureties to stand as security for all his transactions in that country? If so, are such conditions demanded from nationals of other countries? Are the Afghans who come to India for trade required to comply with such conditions?

(b) Is an Indian trader when he reaches Kabul, or any other town in Afghanistan, required to report his arrival to the police station, with two Afghans as sureties, on failure of which is he sent to prison? If so, are such

conditions demanded from nationals of other countries? Are the Afghans who come to India required to comply with such conditions?

(c) Is every Indian trader required to take a licence to do business in Afghanistan by paying heavy licence fees? If so, are such conditions demanded from nationals of other countries? Are the Afghans who come to India required to comply with such conditions?

(d) Is an Indian, when he leaves Afghanistan, required to give two other sureties to the effect that they will be responsible for all his debts and other liabilities incurred by him in Afghanistan; and on failure of which is he put into prison for an indefinite period? Are such conditions demanded from nationals of other countries? Are the Afghans who come to India required to comply with such conditions?

(e) Is no lorry from India allowed to ply in Afghanistan, and is every lorry required to pay heavy taxes in Afghanistan for every trip that it does? Are such conditions demanded from nationals of other countries? Are Afghan lorries required to pay any taxes here to Government?

(f) Has the Afghan Government given monopolies for exports and imports to its own nationals, so far as trade with India is concerned? Is this the case with nationals of other countries who trade with Afghanistan? Have the Government of India given monopolies for exports and imports to the Indians, so far as trade with Afghanistan is concerned?

(g) Is it a fact that Indians can get only Afghan currency notes in exchange for their goods, but that the Afghan National Bank (India), Ltd., has refused to honour the currency notes for the last few months? Have Government made any enquiry into the above, or do they propose to make any enquiry into the Indo-Afghan trade relations?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) Indian traders in some cases are required to furnish security as a condition to their being granted a visa to enter Afghanistan. Under the Afghan Visa Code nationals of other countries are liable to a similar restriction. Afghans who come to India for trade do not have to comply with a similar condition.

(b) An Indian trader when he reaches Kabul has under the Afghan Visa Code to call at the Police Department and obtain a *permit de sejour*. He would presumably be liable to be sent to prison if he did not so report. Government are not aware that he has to furnish two Afghans as sureties. The Afghan Visa Code applies to all foreigners. Afghans who come to India are not required to comply with similar conditions.

(c) An Indian trader who wishes to set up business in Afghanistan has to obtain a licence. The fees payable are not known. So far as Government are aware nationals of other countries, including Afghans, have to comply with a similar condition. Afghans who come to India do not have to comply with a similar condition.

(d) An Indian who has been carrying on business in Afghanistan usually has to furnish security to cover any debts or liabilities he may have incurred before he is granted an exit visa. So far as Government are aware he is not liable to punishment unless he tries to leave Afghanistan without an exit visa. The same conditions apply to other foreigners. Afghans who come to India are not required to comply with similar conditions.

(e) Lorries from India are allowed to ply in Afghanistan. Certain tolls and fees are recovered from them. So far as Government are aware the same

conditions apply to lorries from other foreign countries. Afghan lorries are required to pay certain tolls and fees in India.

(f) The Afghan Government have given monopolies in exports and imports of certain articles to its own nationals for all foreign trade. The Government of India have given no monopolies of any kind to anybody.

(g) It is understood that the Afghan National Bank (India), Ltd., is not at present given Indian currency in exchange for Afghan currency notes. Government are enquiring into this matter, and they are also considering the general question of Indo-Afghan trade relations.

ENTRY OF PERSONS INTO BRITISH INDIA.

309. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Has the attention of Government been drawn to a statement made by the Honourable Sir Sikandar Hayat Khan, Premier, in the Punjab Legislative Assembly on the 24th March, 1938 that " the Punjab Government could not prevent people from across the Indian border to enter the Punjab without passports, as this subject was a Central subject " (vide the *Hindustan Times*, dated the 26th March, 1938) ?

(b) Will Government state the rules and procedure regarding the entry of persons into British territory from across the Indian border, referred to above and the steps, if any, which have been taken in the matter ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) I have seen the Press report.

(b) Entry into British India is regulated by the Indian Passport Act and rules. A copy of the latter is laid on the table. No question of taking any additional powers to control the subject is at present under the consideration of the Central Government.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

INDIAN PASSPORT RULES, 1921.

[NOTIFICATION No. 1384-G., DATED SIMLA, THE 7TH SEPTEMBER, 1921, WITH AMENDMENTS ISSUED UP TO APRIL, 1937.]

In exercise of the powers conferred by section 3 of the Indian Passport Act, 1920 (XXXIV of 1920), the Governor General in Council is pleased to make the following rules :—

1. These rules may be called the Indian Passport Rules, 1921.

2. In these rules, unless there is anything repugnant in the subject or context;.....
 "competent Authority" means any persons authorised by order in writing by the Governor General in Council or by the Local Government to exercise the powers of a competent Authority under these rules.

3. Subject to the provisions hereinafter contained no person proceeding from any place outside India shall enter British India by sea or by air or by land unless he is in possession of a passport.

Explanation I.—A person entering British India by sea or by air shall not be deemed to be proceeding from a place outside India by reason only of the fact that he has traversed extra-territorial waters in the course of his journey.

Explanation II.—A person shall be deemed to be proceeding from a place outside India who having entered India from such place subsequently enters British India.

4. Every such passport—

- (i) shall have been issued or renewed by or on behalf of the country of which the person to whom it relates is a subject and shall be within the period of its validity;
- (ii) shall, except in the case of passports issued to Pardanashin or Gosha women have affixed to it a photograph of the person to whom it relates, duly authenticated by the issuing authority;
- (iii) when issued by or on behalf of His Majesty's Government of any British possession shall be specifically valid for entry into any part of the British Empire or shall have been specifically endorsed by a competent British authority as valid for entry into British India;
- (iv) when issued by or on behalf of the Government of a foreign country shall have been endorsed by way of visa for British India by a proper British Diplomatic, Consular or Passport Authority. Such visas shall be of one of the following kinds, namely :—
 - (a) a single journey visa valid for one year or for such shorter period as may be specified therein for one journey only to British India for any legitimate purpose;
 - (b) a transit visa valid for one year, or for such shorter period as may be specified therein (provided that in no case shall it be valid for a period exceeding the period for which the visa for the country of ultimate destination is valid), for one or more direct journeys through British India undertaken for the sole purpose of reaching the territory of a foreign State or of another British possession and occupying in each case not more than 15 days in British India, unless an extension of the time for such journey be allowed by a competent authority; and
 - (c) an ordinary visa valid for one year or for such shorter period as may be specified therein for any number of journeys to British India for any legitimate purpose.

5. (1) The following persons and classes of persons shall be exempted from the provisions of rule 3 :—

- (a) persons whose age is in the opinion of the competent authority less than 15 years,
- (b) members of His Majesty's Naval, Military or Air Forces or of the Indian Marine Service entering British India on duty, and members of the families of any such person when accompanying such person to British India on a Government transport,
- (c) person domiciled in India proceeding from any foreign possession in India, or from Ceylon, or the Federated Malay States or the Straits Settlements or Burma,
- (d) persons domiciled in Ceylon proceeding from Ceylon and British subjects domiciled in Burma proceeding from Burma,
- (e) persons domiciled in a foreign possession in India, proceeding from any foreign possession in India,
- (f) *bona fide* Mahomedan pilgrims returning from Jeddah or Basra,
- (g) Nepalese, Tibetans, and Bhutanese entering British India by land over the Nepal border,
- (h) Tibetans, Bhutanese, and Nepalese entering British India by land over the Tibetan border,
- (i) persons domiciled in India entering British India by land over the Nepalese, Tibetan and Indo-Burmese borders,

(j) persons or classes of persons specified in this behalf by the Governor General in Council or by a Local Government.

(2) In specifying any person or class of persons in accordance with the provisions of clause (j) of sub-rule (1), the Governor General in Council, or the Local Government may prescribe any conditions to which the exemption of such person or class of persons from the provisions of rule 3 shall be subject.

6. Any person who—

(a) enters British India in contravention of the provisions of rule 3, or

(b) does any act in contravention of any condition prescribed under sub-rule (2) of rule 5,

shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

7. Any person who attempts to commit or abets or attempts to abet the commission of any offence punishable under rule 6 shall be punishable in like manner as if he had committed the offence.

DENYS BRAY,

Secretary to the Government of India.

As amended by Notifications No. 3610-948-G., dated the 8th November, 1922; No. 594-G., dated the 13th December, 1924; No. 245-G., dated the 28th May, 1925; No. 327-G., dated the 23rd June, 1925; No. 77-G., dated the 16th February, 1926; No. 446-G., dated the 27th September, 1926; No. 118-G., dated the 3rd March, 1927; No. 295-G., dated the 11th May, 1927; No. 72-G./30, dated the 22nd January, 1930; No. 287-G./30, dated the 7th March, 1930; No. 404-G./30, dated the 19th June, 1930; No. 514-G., dated the 16th September, 1935; No. 722-G., dated the 22nd December, 1936 and No. F.-28/40/37, dated the 1st April, 1937.

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India: Nominated Official): Sir, I lay on the table the information promised in reply to questions Nos. 223—225 and 236 asked by the Honourable Saiyed Mohamed Padshah Sahib Bahadur on the 21st and 22nd March, 1938.

STARTING OF A CINEMATOGRAF HOUSE IN AJMER.

Questions Nos. 223 and 224.

No licence to open a cinema in the Hall of the B. B. & C. I. R. Institute at Ajmer has been granted, nor has any application for the grant of such licence yet been received. When an application for the grant of a licence is received, it will be treated on its merits. No opinion can be given in advance as to whether the Hall is or is not suitable.

Question No. 225.

An application of the nature described was received on the 8th February, 1938. No action was taken on it as it was considered premature in view of the facts stated in my reply to question Nos. 223 and 224 above.

PRECAUTIONS AGAINST FIRE IN CINEMATOGRAF HOUSES IN BRITISH INDIA.

Question No. 236.

(a) Yes. The number of casualties was 12 women and two children.

(b) and (c). Yes, by the question.

(d) Provincial Governments are quite competent to make rules for the regulation of cinematograph exhibitions including rules regulating precautions against fire. The Central Government are not, therefore, concerned in the matter. So far as the centrally administered areas are concerned, Government are satisfied that the rules made by the local administrations contain sufficient provisions for precautions against fire.

STATEMENT LAID ON THE TABLE.

DRAFT CONVENTIONS AND RECOMMENDATIONS ADOPTED BY THE TWENTY-THIRD SESSION OF THE INTERNATIONAL LABOUR CONFERENCE.

THE HONOURABLE MR. A. G. CLOW (Labour Secretary) : Sir, I lay on the table the Draft Conventions and Recommendations adopted by the Twenty-third Session of the International Labour Conference and a statement indicating the course of action which the Government of India propose to follow in respect of these Draft Conventions and Recommendations.

Draft Conventions and Recommendations adopted by the Conference.

1. Recommendation concerning international co-operation in respect of public works.

Formal preamble has been omitted.

Whereas the advance planing of public works is a useful method of preventing unemployment and counteracting economic fluctuations; and

Whereas action for this purpose can be effective only if it is based on adequate information and international co-operation;

The Conference recommends that :

1. Each Member of the International Labour Organisation should communicate annually to the International Labour Office, on the most suitable date, statistical and other information concerning public works undertaken or planned on its territory, including orders for plant, equipment and supplies.

2. The information communicated by Members in accordance with paragraph 1 should be supplied as far as possible in accordance with a uniform plan relating more particularly to the expenditure involved, the method of financing the works and the number of workers engaged.

3. Each Member should co-operate in the work of any international committee which may be set up by the Governing Body of the International Labour Office for the purpose, more particularly, of studying the information communicated in accordance with paragraph 1 and preparing the uniform plan referred to in paragraph 2.

4. Each Member should carefully consider what action to take on the basis of any reports which the Governing Body of the International Labour Office may send it as a result of the discussions of the committee contemplated by paragraph 3.

2. Recommendation concerning the national planning of public works.

Formal preamble has been omitted.

Whereas in the absence of advance planning expenditure on public works tends to increase in years of prosperity and to diminish in years of depression;

Whereas fluctuations in the volume of employment of workers engaged on public works are thereby superimposed on the fluctuations in the volume of employment arising out of commercial demand, thus aggravating successively the shortage of certain classes of workers in periods of prosperity and the extent of unemployment in periods of depression;

Whereas it is desirable to time public works in such a way as to reduce industrial fluctuations as far as possible;

Whereas the uniform application of such a policy of timing to all public works involves the co-ordination of the administrative and financial methods applied by the various authorities; and

Whereas it is also desirable, if public works are to be fully effective as a remedy for unemployment, that measures should be adopted relating to the conditions of recruitment and employment of the workers engaged on the works;

The Conference recommends that each Member should apply the following principles :

PART I.—TIMING OF PUBLIC WORKS.

1. (1) Appropriate measures should be adopted for the purpose of achieving a suitable timing of all works undertaken or financed by public authorities.

(2) This timing should involve an increase in the volume of such works in periods of depression and for this purpose it is desirable to provide for the preparation in advance, during periods of prosperity, of works capable of being held in reserve or exceeding ordinary requirements and which should be ready for execution as soon as the need is felt.

(3) Special attention should be paid to public works which stimulate heavy industries or public works which create a more direct demand for consumers' goods, as changing economic conditions may require.

2. The policy of timing public works should apply to all such works (including works in colonies) undertaken by central authorities, regional or local authorities, public utility undertakings, or any body or individual in receipt of subsidies or loans from a public authority.

3. There should be established a national co-ordinating body the duties of which should be, more particularly—

- (a) to centralise information relating to the various kinds of public works ;
- (b) to ensure or encourage the preparation of works in advance ; and
- (c) to give instructions or advice as to when works should be held in reserve and when works held in reserve should be undertaken, account being taken of fluctuations in the volume of unemployment, changes in the index of wholesale prices, changes in the rate of interest and any changes in other indices which indicate an alteration in the economic situation.

PART II.—FINANCING OF PUBLIC WORKS.

4. Among the financial measures necessitated by the policy embodied in the present Recommendation the following should receive special consideration :

- (a) the placing to reserve in periods of prosperity of the resources necessary for carrying out works prepared for periods of depression ;
- (b) the carrying forward of unexpended balances from one year to another ;
- (c) restricted borrowing by public authorities in periods of prosperity and accelerated repayment of loans previously contracted ;
- (d) the financing by loan in periods of depression of public works likely to stimulate economic recovery, and, generally speaking, the application of a monetary policy which will make possible the expansion of credit required at such a time for the speeding up of the public works and which will ensure the lowest possible rate of interest on the loans.

5. The co-ordinating body provided for in paragraph 3 or a special body acting in co-operation with it should be entrusted with all or some of the following duties in connection with the financing of public works :

- (a) to advise the central authority on financial policy and, if necessary, taxation policy relating to public works ;
- (b) to assist in achieving proper co-ordination between the credit policy and market operations of the central bank, or corresponding institution, and the public works policy of the Government ;
- (c) to co-ordinate the borrowing policy of the different public bodies referred to in paragraph 2 ; and
- (d) to take such measures as may be necessary to ensure that the policy of the central authority in respect of loans and subsidies is made effective.

PART III.—EMPLOYMENT OF CERTAIN CLASSES OF WORKERS.

6. In applying the policy of timing provided for in this recommendation, consideration should be given to the possibility of including works which will give employment to special classes of workers such as young workers, women and non-manual workers.

PART IV.—CONDITIONS OF RECRUITMENT AND EMPLOYMENT.

7. The recruitment of workers for employment on public works should be effected for preference through the public employment exchanges.

8. Foreign workers authorised to reside in the country concerned should be accepted for employment on public works in the same conditions as nationals, subject to reciprocal treatment.

9. The rates of wages of workers on public works should be not less favourable than those commonly recognised workers organisations and employers for work of the same character in the district where the work is carried out; where there are no such rates recognised or prevailing in the district, those recognised or prevailing in the nearest district in which the general industrial circumstances are similar should be adopted, subject to the condition that the rates should in any case be such as to ensure to the workers a reasonable standard of life as this is understood in their time and country.

3. Draft convention fixing the minimum age for admission of children to Industrial employment (revised 1937.)

Formal preamble has been omitted.

PART I.—GENERAL PROVISIONS.

Article 1.

1. For the purpose of this convention, the term "industrial undertaking" includes particularly—

- (a) mines, quarries, and other works for the extraction of minerals from the earth;
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation transformation, and transmission of electricity and motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure;
- (d) transport of passengers or goods by road or rail or inland waterway including the hauling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

2. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2.

1. Children under the age of fifteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof.

2. Provided that, except in the case of employments which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein, national laws or regulations may permit such children to be employed in undertakings in which only members of the employer's family are employed.

Article 3.

The provisions of this Convention shall not apply to work done by children in technical schools, provided that such work is approved and supervised by public authority.

Article 4.

In order to facilitate the enforcement of the provisions of this Convention, every employer in an industrial undertaking shall be required to keep a register of all persons under the age of eighteen years employed by him, and of the dates of their births.

Article 5.

1. In respect of employments which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein, national laws shall either—

- (a) prescribe a higher age or ages than fifteen years for the admission thereto of young persons or adolescents; or
- (b) empower an appropriate authority to prescribe a higher age or ages than fifteen years for the admission thereto of young persons or adolescents.

2. The annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation shall include full information concerning the age or ages prescribed by national laws in pursuance of sub-paragraph (a) of the preceding paragraph or concerning the action taken by the appropriate authority in exercise of the powers conferred upon it in pursuance of sub-paragraph (b) of the preceding paragraph, as the case may be.

PART II.—SPECIAL PROVISIONS FOR CERTAIN COUNTRIES.

Article 6.

1. The provisions of this Article shall be applicable in Japan in substitution for the provisions of Articles 2 and 5.

2. Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof: Provided that national laws or regulations may permit such children to be employed in undertakings in which only members of the employer's family are employed.

3. Children under the age of sixteen years shall not be employed or work on dangerous or unhealthy work as defined by national laws or regulations in mines or factories.

Article 7.

1. The provisions of Articles 2, 4 and 5 shall not apply to India, but in India the following provisions shall apply to all territories in respect of which the Indian Legislature has jurisdiction to apply them.

2. Children under the age of twelve years shall not be employed or work in factories working with power and employing more than ten persons.

3. Children under the age of thirteen years shall not be employed or work in the transport of passengers or goods, or mails, by rail, or in the handling of goods at docks, quays or wharves, but excluding transport by hand.

4. Children under the age of fifteen years shall not be employed or work—

- (a) in mines, quarries, and other works for the extraction of minerals from the earth;
- (b) in occupations to which this Article applies which are scheduled as dangerous or unhealthy by the competent authority.

5. Unless they have been medically certified as fit for such work—

- (a) persons who have attained the age of twelve years but are under the age of seventeen years shall not be permitted to work in factories working with power and employing more than ten persons;
- (b) persons who have attained the age of fifteen years but are under the age of seventeen years shall not be permitted to work in mines.

Article 8.

1. The provisions of this Article shall be applicable in China in substitution for the provisions of Articles 2, 4 and 5.

2. Children under the age of twelve years shall not be employed or work in any factory using machines driven by motor power and regularly employing thirty persons or more.

3. Children under the age of fifteen years shall not be employed or work—

- (a) in mines regularly employing fifty persons or more; or
- (b) on dangerous or unhealthy work as defined by national laws or regulations in any factory using machines driven by motor power and regularly employing thirty persons or more.

4. Every employer in an undertaking to which this Article applies shall keep a register of all persons under the age of sixteen employed by him, together with such evidence of their age as may be required by the competent authority.

Article 9.

1. The International Labour Conference may, at any Session at which the matter is included in its Agenda, adopt by a two-thirds majority draft amendments to any one or more of the preceding Articles of Part II of this Convention.

2. Any such draft amendment shall state the Member or Members to which it applies and shall, within the period of one year, or, in exceptional circumstances, of eighteen months, from the closing of the Session of the Conference, be submitted by the Member or Members to which it applies to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

3. Each such Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Secretary-General of the League of Nations for registration.

4. Any such draft amendment shall take effect as an amendment to this Convention on ratification by the Member or Members to which it applies.

PART III.—FINAL PROVISIONS.

Article 10.

The formal ratifications of this Convention shall be communicated to the Secretary-General of the League of Nations for registration.

Article 11.

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12.

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 13.

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Secretary-General of the League of Nations for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the Agenda of the Conference the question of its revision in whole or in part.

Article 15.

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then unless the new Convention otherwise provides,

(a) the ratification by a Member of the new revising Convention shall *ipso facto* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content of those Members which have ratified it but have not ratified the revising Convention.

Article 16.

The French and English texts of this Convention shall both be authentic.

4. Draft convention concerning the age for admission of children to non-Industrial employment (revised 1937).

Formal preamble has been omitted.

Article 1.

1. This Convention applies to any employment not dealt with in the Convention concerning the age for admission of children to employment in agriculture (Geneva, 1921), the Minimum Age (Sea) Convention (Revised), 1936, or the Minimum Age (Industry) Convention (Revised), 1937.

2. The competent authority in each country shall, after consultation with the principal organisations of employers and workers concerned, define the line of division which separates the employments covered by this Convention from those dealt with in the three aforesaid Conventions.

3. This Convention does not apply to :—

- (a) employment in sea-fishing ;
- (b) work done in technical and professional schools, provided that such work is essentially of an educative character, is not intended for commercial profit, and is restricted, approved and supervised by public authority.

4. It shall be open to the competent authority in each country to exempt from the application of this Convention—

- (a) employment in establishments in which only members of the employer's family are employed, except employment which is harmful, prejudicial or dangerous within the meaning of Articles 3 or 5 of this Convention ;
- (b) domestic work in the family performed by members of that family.

Article 2.

Children under fifteen years of age, or children over fifteen years who are still required by national laws or regulations to attend primary school, shall not be employed in any employment to which this Convention applies except as hereinafter otherwise provided.

Article 3.

1. Children over thirteen years of age may, outside the hours fixed for school attendance, be employed on light work which—

- (a) is not harmful to their health or normal development ; and
- (b) is not such as to prejudice their attendance at school or capacity to benefit from the instructions there given.

2. No child under fourteen years of age shall—

- (a) be employed on light work for more than two hours per day whether that day be a school day or a holiday ; or
- (b) spend at school and on light work a total number of hours exceeding seven per day.

3. National laws or regulations shall prescribe the number of hours per day during which children over fourteen years of age may be employed on light work.

4. Light work shall be prohibited—

- (a) on Sundays and legal public holidays ; and
- (b) during the night.

5. For the purpose of the preceding paragraph the term "night" means—

- (a) in the case of children under fourteen years of age, a period of at least twelve consecutive hours comprising the interval between eight p. m. and eight a. m. ;
- (b) in the case of children over fourteen years of age, a period which shall be prescribed by national laws or regulations but the duration of which shall not, except in the case of tropical countries where a compensatory rest is accorded during the day, be less than twelve hours.

6. After the principal organisations of employers and workers concerned have been consulted, national laws or regulations shall :—

- (a) specify what forms of employment may be considered to be light work for the purpose of this Article ; and
 - (b) prescribe the preliminary conditions to be complied with as safeguards before children may be employed on light work.
7. Subject to the provisions of sub-paragraph (a) of paragraph 1 above.
- (a) national laws or regulations may determine work to be allowed and the number of hours per day to be worked during the holiday time of children referred to in Article 2 who are over fourteen years of age ;
 - (b) in countries where no provision exists relating to compulsory school attendance, the time spent on light work shall not exceed four and a half hours per day.

Article 4.

1. In the interests of art, science or education, national laws or regulations may, by permits granted in individual cases, allow exceptions to the provisions of Articles 2 and 3 of this Convention in order to enable children to appear in any public entertainment or as actors or supernumeraries in the making of cinematographic films ;

2. Provided that—

- (a) no such exception shall be allowed in respect of employment which is dangerous within the meaning of Article 5, such as employment in circuses, variety show or cabarets ;
- (b) strict safeguards shall be prescribed for the health, physical development and morals of the children, for ensuring kind treatment of them, adequate rest, and the continuation of their education ; and
- (c) children to whom permits are granted in accordance with this Article shall not be employed after midnight.

Article 5.

A higher age or ages than those referred to in Article 2 of this Convention shall be fixed by national laws or regulations for admission of young persons and adolescents to any employment which, by its nature, or the circumstances in which it is to be carried on, is dangerous to the life, health or morals of the persons employed in it.

Article 6.

A higher age or ages than those referred to in Article 2 of this Convention shall be fixed by national laws or regulations for admission of young persons and adolescents to employment for purposes of itinerant trading in the streets or in places to which the public have access, to regular employment at stalls outside shops or to employment in itinerant occupations, in cases where the conditions of such employment require that a higher age should be fixed.

Article 7.

In order to ensure the due enforcement of the provisions of this Convention, national laws or regulations shall—

- (a) provide for an adequate system of public inspection and supervision ;
- (b) require every employer to keep a register of the names and dates of birth of all persons under the age of eighteen years employed by him in any employment to which this Convention applies other than an employment to which Article 6 applies ;
- (c) provide suitable means for facilitating the identification and supervision of persons under a specified age engaged in the employments and occupations covered by Article 6 ; and
- (d) provide penalties for breaches of the laws or regulations by which effect is given to the provisions of this Convention.

Article 8.

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation full information concerning all laws and regulations by which effect is given to the provision of this Convention, including—

- (a) a list of the forms of employment which national laws or regulations specify to be light work for the purpose of Article 3 ;
- (b) a list of the forms of employment for which, in accordance with Articles 5 and 6, national laws or regulations have fixed ages for admission higher than those laid down in Article 2 ; and
- (c) full information concerning the circumstances in which exceptions to the provisions of Articles 2 and 3 are permitted in accordance with the provisions of Article 4.

Article 9.

1. The provisions of Articles 2, 3, 4, 5, 6 and 7 of this Convention shall not apply to India, but in India the following provisions shall apply to all territories in respect of which the Indian Legislature has jurisdiction to apply them.

2. Children under thirteen years of age shall not be employed—

- (a) in shops, offices, hotels or restaurants ;
- (b) in places of public entertainment ; or
- (c) in any other non-industrial occupations to which the provisions of this paragraph may be extended by the competent authority.

3. In the interest of art, science or education, national laws or regulations may by permits granted in individual cases, allow exceptions to the provisions of the preceding paragraph in order to enable children to appear in any public entertainment as or actors or supernumeraries in the making of cinematographic films.

4. Persons under seventeen years of age shall not be employed in any non-industrial employment which the competent authority, after consultation with the principal organisations of employers and worker concerned, may declare to involve danger to life, health or morals.

5. The International Labour Conference may, at any Session at which the matter is included in its Agenda, adopt by a two-thirds majority draft amendments to the preceding paragraphs of this Article.

6. Any such draft amendment shall, within the period of one year, or, in exceptional circumstances, of eighteen months, from the closing of the Session of the Conference, be submitted in India to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

7. India will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Secretary-General of the League of Nations for registration.

8. Any such draft amendment shall take effect as an amendment to this Convention on ratification by India.

NOTE.—Articles 10 to 16 are identical with Articles 10 to 16 of the Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).

5. Recommendation concerning the minimum age for admission of children to Industrial employment in family undertakings.

Formal preamble has been omitted.

Whereas the Minimum Age (Industry) Convention (Revised), 1937, while restricting the scope of the exception for family undertakings contained in the 1919 Convention, still permits such undertakings to be excluded from its scope except in the case of employments which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein ; and

Whereas it is reasonable to hope that it will be possible to suppress this exception completely in the not distant future ;

The Conference recommends that the Members of the Organisation should make every effort to apply their legislation relating to the minimum age of admission to all industrial undertakings, including family undertakings.

6. Draft convention concerning the reduction of hours of work in the textile industry.

The General Conference of the International Labour Organisation,
Having met at Geneva in its Twenty-third Session on 3 June 1937 ;

Considering that the question of the reduction of hours of work in the textile industry is the second item on the Agenda of the Session ;

Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living ;

Considering it to be desirable that this principle should be applied by international agreement to the textile industry ;

adopts this twenty-second day of June of the year one thousand nine hundred and thirty-seven, the following Draft Convention which may be cited as the Reduction of Hours of Work (Textiles) Convention, 1937 :

Article 1.

1. This Convention applies to—

- (a) persons employed in an undertaking which fulfils the condition stated in paragraph 2 of this Article, including persons employed in any branch of such an undertaking which branch does not fulfil that condition ; and
- (b) persons employed in a branch of an undertaking which branch fulfils the condition stated in paragraph 2 of this Article, even though the undertaking does not fulfil that condition.

2. The condition referred to in the preceding paragraph is that the undertaking or branch of an undertaking is engaged wholly or mainly in one or more of the series of operations delimited in paragraphs 3, 4 and 5 of this Article in the course of the manufacture of any kind of thread, yarn, twine, cord, rope, netting or felt, or any woven, piled, knitted or lacework fabric from any one or more of the following materials : cotton, wool, silk, flax, hemp, jute, rayon or other synthetic fibre, or any other textile material whether of vegetable, animal or mineral origin.

3. The series of operations referred to in paragraph 2 of this Article begins—

- (a) in the case of cotton, with the reception of the bales of ginned cotton for breaking up and cleaning ;
- (b) in the case of wool, with the reception of the raw wool for sorting and cleaning (excluding the process of anthrax disinfection) ;
- (c) in the case of silk, with the reeling of the silk from the cocoon or the steeping of the silk waste ;
- (d) in the case of flax, jute and hemp, with the operation of retting, except where this operation is effected as work accessory to that of an agricultural undertaking ;
- (e) in the case of rayon or other synthetic fibre, with the reception of the materials used in the chemical production of the fibre ;
- (f) in the case of rags, with the sorting of the rags or the reception of the sorted rags ; and
- (g) in the case of any other textile material, with the operation prescribed by the competent authority as corresponding to the operations set out above.

4. The series of operations referred to in paragraph 2 of this Article includes the operations of bleaching, dyeing, printing, and finishing and similar operations, and ends with the packing and despatch of the products specified in that paragraph.

5. The series of operations referred to in paragraph 2 of this Article includes the making in whole or in part of any garment or other article only in the following cases :

- (a) the case of hosiery manufacture ; and
- (b) cases in which the garment or other article is made by the same process as the fabric thereof.

6. In any case in which it is doubtful whether an undertaking or branch of an undertaking fulfils the condition stated in paragraph 2 of this Article, the question shall be determined by the competent authority after consultation with the organisations of employers and workers concerned where such exist.

7. Where and so long as the principle of a forty-hour week is applied to persons to whom this Convention applies in accordance with the provisions of any international labour Convention other than this Convention, the competent authority may exclude such persons from the application of this Convention.

8. This Convention applies to persons employed in both public and private undertakings.

Article 2.

The competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from the application of this Convention—

- (a) persons employed in undertakings in which only members of the employer's family are employed ;
- (b) classes of persons who by reason of their special responsibilities are not subjected to the normal rules governing the length of the working week.

Article 3.

1. For the purpose of this Convention the term " hours of work " means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

2. Where at the date of the adoption of this Convention it is the practice not to regard time spent in the cleaning or oiling of machines as part of ordinary working time, the competent authority may permit any time not exceeding one-and-a-half hours in any week which is so spent to be disregarded in reckoning for the purpose of this Convention the hours of work of the persons concerned.

Article 4.

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the cases of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the processes to which paragraph 2 of this Article applies.

4. Where hours of work are calculated as an average, the competent authority shall after consultation with the organisations of employers and workers concerned where such exist, determine the number of weeks over which the average may be calculated and the maximum number of hours that may be worked in any week.

Article 5.

The competent authority may, by regulations made after consultation with the organisations of employer and workers concerned where such exist, provide that the limits of hours authorised by the preceding Article may be exceeded to an extent prescribed by such regulations in the case of—

- (a) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking, branch or shift ;
- (b) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls ;
- (c) persons employed in connection with the transport, delivery or loading or unloading of goods.

Article 6.

1. The limits of hours authorised by the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking—

- (a) in case of accident actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure* ;

(b) in order to make good the unforeseen absence of one or more members of a shift.

2. The employer shall notify the competent authority without delay of all time worked in virtue of this Article and of the reasons therefor.

Article 7.

1. The limits of hours authorised by the preceding Articles may be exceeded in cases where the continued presence of particular persons is necessary for the completion of a bleaching, dyeing, finishing or other operation, or of a succession of such operations, which for technical reasons cannot be interrupted without damage to the material worked and which by reason of exceptional circumstances it has not been possible to complete within the normal limit of hours.

2. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the operations to which and the conditions subject to which the preceding paragraph applies and the maximum number of hours which may be worked in virtue of that paragraph by the persons concerned.

Article 8

1. Upon application by an employer, the competent authority may, after consultation with the organisations of employers and workers concerned where such exist, grant an allowance of overtime for specified classes of persons in exceptional cases in which overtime on one or more operations is necessary in order to enable the workers engaged in subsequent operations in the same undertaking to be employed up to the authorised limits of hours.

2. The competent authority shall determine, after consultation with the organisations of employers and workers concerned where such exist, the maximum number of hours of overtime which may be worked in virtue of paragraph 1 of this Article so however that no such allowance shall permit of any person being employed for more than sixty hours of such overtime in any year or for more than four hours of such overtime in any week.

3. Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

4. The competent authority may attach to the grant of an allowance of overtime such conditions as it deems expedient with a view to securing a progressive reduction in the amount of overtime.

Article 9.

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded subject to the conditions that—

(a) all time worked in virtue of this Article shall be regarded as overtime and shall be remunerated at not less than one-and-a-quarter times the normal rate; and

(b) no person shall be employed in virtue of this Article for more than seventy-five hours of overtime in any year.

2. In cases in which national laws or regulations apply the weekly limit of hours as a strict limit applicable to each week, the competent authority may permit not more than one hundred additional hours of overtime in any year to be worked, subject to the condition that such additional hours of overtime shall be remunerated at not less than one-and-a-quarter times the normal rate.

3. When granting permission in virtue of the preceding paragraphs, the competent authority shall satisfy itself that there will be no consistent working of overtime.

4. The competent authority shall only grant permission to work overtime in virtue of this Article in accordance with regulations made after consultation with the organisations of employers and workers concerned where such exist.

5. The regulations referred to in the preceding paragraph shall prescribe—

(a) the procedure by which permission may be granted to employers to work overtime in virtue of this Article; and

(b) the maximum number of hours for which the competent authority may grant permission and the minimum overtime rate to be paid for such hours.

Article 10.

In order to facilitate the effective enforcement of the provisions of this Convention every employer shall—

- (a) notify in a manner approved by the competent authority, by the posting of notices or otherwise ;
- (i) the hours at which work begins and ends ;
- (ii) where work is carried on by shifts, the hours at which each shift begins and ends ;
- (iii) where a rotation system is applied, a description of the system including a time-table for each person or group of persons ;
- (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks ; and
- (v) effective rest periods as defined in Article 3 ; and
- (b) keep a record in the form prescribed by the competent authority of all additional hours worked in virtue of Article 7, 8 and 9 of this Convention and of the payments made in respect thereof.

Article 11.

Any member may suspend the operation of the provisions of this Convention during any emergency which endangers the national safety.

Article 12.

During a period which shall not exceed two years from the coming into force of this Convention for the Member concerned, the competent authority may approve transitional arrangements in virtue of which—

- (a) the reduction of hours of work to the limits authorized by the preceding Articles may be accomplished by stages during the said period ;
- (b) specified classes of workers or undertakings may be exempted from all or any of the provisions of the Convention during the said period.

Article 13.

The annual reports upon the application of this Convention to be submitted by members under Article 22 of the Constitution of the International Labour Organisation shall include more particularly full information concerning—

- (a) decisions taken in virtue of Article 1, paragraph 3 (g) ;
- (b) exemptions made in virtue of Article 2 and any conditions subject to which such exemptions are made ;
- (c) any recourse to the provisions of Article 3, paragraph 2 ;
- (d) determinations made in pursuance of Article 4, paragraph 4 ;
- (e) regulations made in virtue of Article 5 ;
- (f) determinations made in pursuance of Article 7, paragraph 2 ;
- (g) allowances of overtime granted in virtue of Article 8 ; and
- (h) the extent to which recourse has been had to the provisions of Article 9.

Article 14.

In accordance with Article 19, paragraph 11 of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, customs or agreement between employers and workers which ensures more favourable conditions to the workers than those provided for by this Convention.

Article 15.

In the event of the Conference adopting a further Convention determining such modifications of the provisions of this Convention as may be required to meet the case of countries to which Article 19 paragraph 3, of the Constitution of the International Labour Organisation applies, this Convention and the aforesaid further Convention shall be deemed to form one Convention.

NOTE.—Articles 16 to 22 are identical with Articles 10 to 16 of the Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).

7. Draft convention concerning safety provisions in the building industry.

The General Conference of the International Labour Organisation.

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-third Session on 3 June 1937, and

Considering that building work gives rise to serious accident risks which it is necessary to reduce both on humanitarian and on economic grounds, and

Having decided upon the adoption of certain proposals with regard to safety provisions for workers in the building industry with reference to scaffolding and hoisting machinery, which is the first item on the Agenda of the Session, and

Considering that, in view of the desirability of standardising minimum safety provisions without prescribing requirements too rigid for general application, the most appropriate form for these proposals is that of a Draft International Convention accompanied by a Recommendation embodying a Model Code of Safety Regulations,

adopts this twenty-third day of June of the year one thousand nine hundred and thirty-seven the following Draft Convention which may be cited as the Safety Provisions (Building) Convention, 1937.

PART I.—OBLIGATIONS OF PARTIES TO CONVENTION.

Article 1.

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes that it will maintain in force laws or regulations —

(a) which ensure the application of the General Rules set forth in Parts II to IV of this Convention; and

(b) in virtue of which an appropriate authority has power to make regulations for the purpose of giving such effect as may be possible and desirable under national conditions to the provisions of, or provisions equivalent to the provisions of, the Model Code annexed to the Safety Provisions (Building) Recommendation, 1937, or any revised Model Code subsequently recommended by the International Labour Conference.

2. Each such Member further undertakes that it will communicate every third year to the International Labour Office a report indicating the extent to which effect has been given to the provisions of the Model Code annexed to the Safety Provisions (Building) Recommendation, 1937, or of any revised Model Code subsequently by the International Labour Conference.

Article 2.

1. The laws or regulations for ensuring the application of the General Rules set forth in Parts II to IV of this Convention shall apply to all work done on the site in connection with the construction, repair, alteration, maintenance and demolition of all types of buildings.

2. The said laws or regulations may provide that the competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from all or any of their provisions work of such a character that reasonably safe conditions normally obtain.

Article 3.

The laws or regulations for ensuring the application of the General Rules set forth in Parts II to IV of this Convention, and regulations made by the appropriate authority for the purpose of giving effect to the Model Code annexed to the Safety Provisions (Building) Recommendation, 1937 shall—

(a) require employers to bring them to the notice of all persons concerned in a manner approved by the competent authority;

(b) define the persons responsible for compliance therewith and

(c) prescribe adequate penalties for any violation thereof.

Article 4.

Each Member which ratifies this Convention undertakes to maintain, or satisfy itself that there is maintained, a system of inspection adequate to ensure the effective enforcement of its laws and regulations relating to safety precautions in the building industry.

Article 5.

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of economic development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect of particular localities or particular kinds of building operations as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

Article 6.

Each Member which ratifies this Convention undertakes to communicate annually to the International Labour Office the latest statistical information relating to the number and classification of accidents occurring to persons occupied on work within the scope of this Convention.

PART II.—GENERAL RULES AS TO SCAFFOLDS.

Article 7.

1. Suitable scaffolds shall be provided for workmen for all work that cannot be safely done from a ladder or by other means.

2. A scaffold shall not be constructed, taken down, or substantially altered except—

- (a) under the supervision of a competent and responsible person; and
- (b) as far as possible by competent workers possessing adequate experience in this kind of work.

3. All scaffolds and appliances connected therewith and all ladders shall—

- (a) be of sound material;
- (b) be of adequate strength having regard to the loads and strains to which they will be subjected; and
- (c) be maintained in proper condition.

4. Scaffolds shall be so constructed that no part thereof can be displaced in consequence of normal use.

5. Scaffolds shall not be overloaded and so far as practicable the load shall be evenly distributed.

6. Before installing lifting gear on scaffolds special precautions shall be taken to ensure the strength and stability of the scaffolds.

7. Scaffolds shall be periodically inspected by a competent person.

8. Before allowing a scaffold to be used by his workmen every employer shall, whether the scaffold has been erected by his workmen or not, take steps to ensure that it complies fully with the requirements of this Article.

Article 8.

1. Working platforms, gangways and stairways shall—

- (a) be so constructed that no part thereof can sag unduly or unequally;
- (b) be so constructed and maintained, having regard to the prevailing conditions, as to reduce as far as practicable risks of persons tripping or slipping; and
- (c) be kept free from any unnecessary obstruction.

2. In the case of working platforms, gangways, working places and stairways at a height exceeding that to be prescribed by national laws or regulations—

- (a) every working platform and every gangway shall be closely boarded unless other adequate measures are taken to ensure safety;
- (b) every working platform and gangway shall have adequate width; and
- (c) every working platform, gangway, working place and stairway shall be suitably fenced.

Article 9.

1. Every opening in the floor of a building or in a working platform shall except for the time and to the extent required to allow the access of persons or the transport or shifting of material, be provided with suitable means to prevent the fall of persons or material.

2. When persons are employed on a roof where there is a danger of falling from a height exceeding that to be prescribed by national laws or regulations, suitable precautions shall be taken to prevent the fall of persons or material.

3. Suitable precautions shall be taken to prevent persons being struck by articles which might fall from scaffolds or other working places.

Article 10.

1. Safe means of access shall be provided to all working platforms and other working places.

2. Every ladder shall be securely fixed and of such length as to provide secure hand-hold and foothold at every position at which it is used.

3. Every place where work is carried on and the means of approach thereto shall be adequately lighted.

4. Adequate precautions shall be taken to prevent danger from electrical equipment.

5. No materials on the site shall be so stacked or placed as to cause danger to any person.

PART III. GENERAL RULES AS TO HOISTING APPLIANCES.

Article 11.

1. Hoisting machines and tackle, including their attachments anchorages and supports, shall—

- (a) be of good mechanical construction sound material and adequate strength and free from patent defect; and
- (b) be kept in good repair and in good working order.

2. Every rope used in hoisting or lowering materials or as a means of suspension shall be suitable quality and adequate strength and free from patent defect.

Article 12.

1. Hoisting machines and tackle shall be examined and adequately tested after erection on the site and before use and be re-examined by national laws or regulations.

2. Every chain, ring, hook, shackle, swivel and pulley block used in hoisting or lowering materials or a means of suspension shall be periodically examined.

Article 13.

1. Every crane driver or hoisting appliance operator shall be properly qualified.

2. No person under 18 years of age to be prescribed by national laws or regulations shall be in control of any hoisting machine, including any scaffold winch or give signals to the operator.

Article 14.

1. In the case of every hoisting machine and of every chain, ring, hook, shackle, swivel and pulley block used in hoisting or lowering or as a means of suspension the safe working load shall be ascertained by adequate means.

2. Every hoisting machine and all gear referred to in the preceding paragraph shall be plainly marked with the safe working load.

3. In the case of a hoisting machine having a variable safe working load each safe working load and the conditions under which it is applicable shall be clearly indicated.

4. No part of any hoisting machine or of any gear referred to in paragraph 1 of this Article shall be loaded beyond the safe working load except for the purpose of testing.

Article 15.

1. Motors, gearing, transmissions, electric wiring and other dangerous parts of hoisting appliances shall be provided with efficient safeguards.

2. Hoisting appliances shall be provided with such means as will reduce to a minimum the risk of the accidental descent of the load.

3. Adequate precautions shall be taken to reduce to a minimum the risk of and part of a suspended load becoming accidentally displaced.

PART IV.—GENERAL RULES AS TO SAFETY EQUIPMENT AND FIRST AID.

Article 16.

1. All necessary personal safety equipment shall be kept available for the use of the persons employed on the site and be maintained in a condition suitable for immediate use.

2. The workers shall be required to use the equipment thus provided and the employer shall take adequate steps to ensure proper use of the equipment by those concerned.

Article 17.

When work is carried on in proximity to any place where there is a risk of drowning all necessary equipment shall be provided and kept ready for use and all necessary steps shall be taken for the prompt rescue of any person in danger.

Article 18.

Adequate provision shall be made for prompt first-aid treatment of all injuries likely to be sustained during the course of the work.

NOTE.—Articles 19 to 25 are identical with Articles 10 to 16 of the Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).

8. Recommendation concerning safety provisions in the building industry.

Formal preamble has been omitted.

Whereas it is desirable, with a view to intensifying the efforts being made by the Members of the Organisation to reduce the risk of accident in the building industry, to submit for their consideration model safety provisions and to arrange for an exchange upon an international scale of the experience acquired in the application of these provisions.

Whereas the Safety Provisions (Building) Convention, 1937, embodies a series of general principles which require to be supplemented by detailed safety regulations;

Whereas it is therefore desirable that Members of the Organisation which ratify that Convention should have at their disposal a Model Code of safety regulation which have been proved by experience to be calculated to reduce the risk of accidents; and

Whereas it is also desirable that such a Model Code should be available for the guidance of any Members which may be unable to ratify immediately the Safety Provisions (Building) Convention, 1937;

The Conference recommends that:

1. Each Member of the International Labour Organisation should give the fullest effect possible and desirable under national conditions to the provisions of, or provision equivalent to the provisions of, the annexed Model Code.

2. Any Members of the International Labour Organisation which have not ratified the Safety Provision (Building) Convention, 1937, should communicate every third year to the International Labour Office on a voluntary basis a report indicating the extent to which effect has been given to the Model Code.

ANNEX.**MODEL CODE.****PART 1: SCAFFOLDS.***Regulation 1.—Necessity for Scaffolding.*

Suitable and sufficient scaffolds shall be provided for workmen for all work that cannot safely be done from a ladder or by other means.

Regulation 2.—Erection of Scaffolds.

A scaffold shall not be constructed, taken down or substantially altered except under the direction of a competent and responsible person and as far as possible by competent workers possessing adequate experience in this kind of work.

Regulation 3.—Quality of Materials.

1. All scaffolds and appliances connected therewith and all ladders shall be of sound material and be of adequate strength having regard to the loads and strains to which they will be subjected.

2. The wooden parts used for scaffolds, gangways, runs and ladders shall be of good quality shall have long fibres, shall be in good condition and shall not be painted or treated in a manner likely to hide defects.

3. Timber used for scaffolds shall have the bark completely stripped off.

4. Where necessary; boards and planks used for scaffolds shall be protected against splitting.

5. Metal parts of scaffolds shall have no cracks and shall be free from any corrosion or other defect likely to affect their strength.

6. Cast-iron nails shall not be used.

Regulation 4.—Inspection and Storage of Materials.

1. Scaffold parts, including scaffolding machines and ropes and cables, shall be examined by an experienced person on each occasion before erection and shall not be used on any occasion unless in every respect they possess the qualities required for their purpose.

2. Any rope that has been in contact with acids or other corrosive substances or is defective shall not be used.

3. All materials used in the construction of scaffolds shall be stored under good conditions and apart from any material unsuitable for scaffolds.

Regulation 5.—Supply and Use of Material and Maintenance of Scaffolds.

1. Sufficient material shall be provided for and shall be used in the construction of scaffolds.

2. (1) Every scaffold shall be maintained in good and proper condition and every part shall be kept fixed or secured so that no part can be displaced in consequence of normal use.

(2) No scaffold shall be partly dismantled and left so that it is capable of being used unless it continues to comply with these Regulations.

Regulation 6.—Pole and Gabbard Scaffolds.

1. Pole standards and the legs of gabbard scaffolds shall be—

(a) vertical or slightly inclined towards the building; and

(b) fixed sufficiently close together to secure the stability of the scaffolds having regard to all the circumstances.

2. The stability of pole standards shall be secured—

(a) by letting the pole the necessary distance into the ground according to the nature of the soil; or

(b) by placing the pole on a suitable plank or other adequate sole plate in such a manner as to prevent slipping; or

(c) in any other sufficient way.

3. When two scaffolds meet at the corner of a building a pole standard shall be placed at the corner on the outside of the scaffolds.

4. (1) Ledgers shall be practically level and securely fastened to the uprights by bolts, dogs, ropes or other efficient means.

(2) The ends of two consecutive ledgers at the same level shall be securely joined together at an upright except when special devices are used which ensure equivalent strength.

5. (1) Putlogs shall be straight and securely fastened to the ledgers.

(2) If ledgers are not used the putlogs shall be fastened to the uprights and supported by securely fastened cleats.

(3) Putlogs which have one end supported by a wall shall have at that end a plane supporting surface at least 10 cm. deep.

(4) The dimensions of the putlogs shall be appropriate to the load to be borne by them.

(5) The distance between two consecutive putlogs on which a platform rests shall be fixed with due regard to the anticipated load and the nature of the platform flooring.

(6) As a general rule the said distance shall not exceed 1 m. with planks less than 40 mm. thick, 1.50 m. with planks less than 50 mm. thick, and 2 m. with planks at least 50 mm. thick.

(7) The requirements of paragraph 5 (6) of this Regulation shall not apply in the case of platforms used for carrying light building materials only, but in the case of such platforms the distance between the putlogs shall not exceed 2 m.

6. No plank used for a platform, shall be less than 30 mm. thick.

Regulation 7.—Ladder Scaffolds.

1. Ladder scaffolds shall be used only for light work requiring little material (renovation, painting and the like).

2. The ladders serving as the uprights of ladder scaffolds—

(a) shall be of adequate strength; and

(b) shall either—

(i) be let into the ground to the necessary depth according to the nature of the soil; or

(ii) be placed on sole plates or boards so that the two uprights of each ladder rest evenly on the base, and be suitably fastened at the feet to prevent them from slipping.

3. If a ladder is used to extend another, the two shall overlap at least 1.50 m. and shall be securely fastened together.

Regulation 8.—Stability of Pole, Gabbard and Ladder Scaffolds.

1. Every scaffold shall be sufficiently and properly braced.

2. Every scaffold shall, unless it is an independent scaffold, be rigidly connected with the building at suitable vertical and horizontal distances.

3. If the scaffold is an independent scaffold, at least one-third of the putlogs shall remain in position until the scaffold is finally dismantled and remain securely fastened to the ledgers or the uprights as the case may be.

4. All structures and appliances used as supports for working platforms shall be of sound construction, have a firm footing, and be suitably strutted and braced to make them stable.

5. Loose bricks, drain pipes, chimney pots or other unsuitable material shall not be used for the construction or support of scaffolds.

Regulation 9.—Cantilever or Jib Scaffolds.

1. Cantilever or jib scaffolds shall—

(a) be securely fixed and anchored from the inside;

(b) have outriggers of adequate length and cross-section to ensure their solidity and stability; and

(c) be properly braced and supported.

2. Only solid parts of the building shall be used as supports for scaffold parts.

3. If working platforms rest on bearers let into the wall the bearers shall be efficiently braced, shall go right through the wall and shall be securely fastened on the far side.

Regulation 10.—Bracket Scaffolds.

No figure or bracket scaffold supported or held by dogs or spikes driven into the wall shall be used unless the brackets are of suitable strength, are made of suitable metal, and are securely anchored in the wall.

Regulation 11.—Heavy Suspended Scaffolds with Movable Platforms.

1. Heavy suspended scaffolds, shall comply with the provisions of this Regulation.
2. Outriggers shall be—
 - (a) of adequate strength and cross-section to ensure the solidity and stability of the scaffold;
 - (b) installed at right angles to the building face; and
 - (c) carefully spaced to suit the putlogs or deck irons.
3. The overhang of the outriggers from the building shall be such that the platform is fixed to hang not more than 10 cm. from the building face.
4. (1) The outriggers shall be securely anchored to the building by bolts or other equivalent means.
- (2) Anchor bolts shall be properly tightened and shall securely tie down the outrigger to the framework of the building.
5. No counterweight shall be used as a means of securing the outriggers of such scaffolds.
6. Stop bolts shall be placed at the end of each outrigger.
7. The shackle serving to fasten the cables to the outriggers shall be placed vertically above the drum centres of the winches on the movable platforms. The eye of the cable shall be placed in the centre of the bent shackle bolt.
8. Suitable putlogs or deck irons shall be used to support the platforms and shall be suitably fastened so as to prevent displacement. Deck irons shall be adequately jointed by fish plates.
9. The cables or wire ropes used for suspension shall—
 - (a) have at all times a factor of safety of at least ten, based on the maximum load that the ropes may have to support, and
 - (b) be of such length that at the lowest position of the platform there are at least two turns of rope and each drum.
10. The scaffolding machines shall be so constructed and installed that their moving parts are readily accessible for inspection.

Regulation 12.—Light Suspended Scaffolds with Movable Platforms.

1. Light suspended scaffolds shall comply with the provisions of this Regulation.
2. The outriggers shall be of adequate length and cross-section and shall be properly installed and supported.
3. (1) The inside ends of the outriggers shall be firmly secured.
- (2) When the outriggers are anchored by bags of ballast or other loose counterweights the bags or counterweights shall be securely lashed to the outriggers.
- (3) The suspension ropes shall have a factor of safety of at least ten.
4. The maximum length of the platform shall be 8 m.
5. The platform shall hang on at least three ropes which shall be not more than 3 m. apart. No intermediate rope shall at any time be tauter than either of the end ropes.
6. The pulley blocks shall be fastened to the platforms by stout iron bands which shall be properly secured, shall be continued round the sides and bottom of the platform and shall have eyes in the iron to receive the ropes.
7. Suspended scaffolds on which the workers sit to work shall be provided with devices to keep the platform at a distance of at least 30 cm. from the wall and to prevent the workers from knocking their knees against the wall if the scaffold swings.

Regulation 13.—Other Suspended Scaffolds.

1. A skip, large basket, boarswain's chair or similar equipment shall only be used as suspended scaffold in exceptional circumstances for work of short duration and under the supervision of a responsible person.

2. When such equipment is used as a suspended scaffold—

- (a) it shall be supported by ropes having a safety factor of at least ten based on the total load including the dead weight; and
- (b) the necessary precautions shall be taken to prevent the workers from falling out.

3. When a skip or large basket is used as a suspended scaffold :

- (a) it shall be at least 75 cm. deep; and
- (b) it shall be carried by two strong iron bands which shall be properly fastened, shall be continued round the sides and bottom, and shall have eyes in the iron to receive the ropes.

Regulation 14.—Transport and Storage of Materials on Scaffolds: Distribution of the Load.

1. In transferring heavy loads on or to a scaffold no sudden shock shall be transmitted to the scaffold.

2. The load on the scaffold shall be evenly distributed as far as is practicable and in any case shall be so distributed as to avoid any dangerous disturbance of the equilibrium.

3. During the use of a scaffold care shall constantly be taken that it is not overloaded and that materials are not unnecessarily kept upon it.

Regulation 15.—Installation of Lifting Gear on Scaffolds.

1. When lifting gear is to be used on a scaffold—

- (a) the parts of the scaffold shall be carefully inspected, and, if need be, adequately strengthened;
- (b) any movement of the put logs shall be prevented; and
- (c) if possible the upright shall be rigidly connected to a solid part of the building at the place where the lifting gear is erected.

2. When the platform of the lifting gear does not move in guides or when the load is liable to come into contact with the scaffold during hoisting or lowering a vertical hoarding shall be erected to the full height of the scaffold to prevent loads from being caught in it.

Regulation 16.—Periodic Inspection of Scaffolds.

Scaffolds shall be inspected by a competent person—

- (a) at least once a week; and
- (b) after every spell of bad weather and every material interruption in the work.

Regulation 17.—Examination of Scaffolds before Use, especially Scaffolds constructed by other Contractors.

Every scaffold, whether or not it has been erected by the employer whose workmen are about to use it—

- (a) shall before use be examined by a competent person to ensure more particularly—
 - (i) that it is in a stable condition;
 - (ii) that the materials use in its construction are sound;
 - (iii) that it is adequate for the purpose for which it is to be used; and
 - (iv) that the required safeguards are in position; and
- (b) shall during use be maintained in good condition.

Regulation 18.—Working Platforms.

1. Every working platform which is more than 2 m. above the ground or floor shall be closely boarded or planked.

2. (1) The width of the platform shall be adequate having regard to the nature of the work, and shall be such that at every part there is not less than 60 cm. clear passage free from fixed obstacles and deposited material.

(2) In no case shall the width of the platforms be less than :

- (a) 60 cm. if the platform is used as a footing only and not for the deposit of any material ;
- (b) 80 cm. if the platform is used for the deposit of material ;
- (c) 110 cm. if the platform is used for the support of any higher platform ;
- (d) 130 cm. if the platform is one upon which stone is dressed or roughly shaped ;
- (e) 150 cm. if the platform is used for the support of any higher platform and is one upon which stone is dressed or roughly shaped.

3. The maximum width of a platform supported on putlogs shall as a rule not exceed 160 cm.

4. Every working platform shall, if part of a pole or gabbard scaffold, be at least 1 m. below the top of standards.

5. Boards or planks which form part of a working platform or which are used as toe-boards shall—

- (a) be of a thickness which is such as to afford adequate security having regard to the distance between the putlogs but is in no case less than 30 mm.; and
- (b) be of a width not less than 15 cm.

6. No board or plank which forms part of a working platform shall project beyond its end support to a distance exceeding four times the thickness of the board or plank.

7. Boards or planks shall not overlap one another unless precautions such as the provision of bevelled pieces are taken to reduce the risk of tripping to a minimum and to facilitate the movement of barrows.

8. Every board or plank which forms part of a working platform shall rest on at least three supports, unless the distances between the putlogs and the thickness of the board or plank are such as to exclude all risk of tipping or undue sagging.

9. Platforms shall be so constructed that the boards or planks cannot be displaced in consequence of normal use.

10. Whenever possible a platform shall extend at least 60 m. beyond the end of the wall of the building.

11. Every part of a working platform or working place from which a person is liable to fall a distance exceeding 2 m. shall be provided—

- (a) with a suitable guard-rail or guard-rails having a cross-section of at least 30 cm., fixed at least 1 m. above the platform or above any raised standing place on the platform and so that the vertical opening below any guard-rail does not exceed 85 cm.
- (b) with toe-boards which are of sufficient height to prevent the fall of materials and tools from the platform and in no case less than 15 cm. high and are as close as possible to the platform.

12. Guards, rails, toe-boards and other safeguards used on a scaffold platform shall be maintained in position, except that they may be removed for the time and to the extent required to allow the access of persons or the transport or shifting of materials.

13. The guard-rail and toe-boards used on a scaffold platform shall be placed on the inside of the uprights.

14. The platforms of suspended scaffolds shall be provided with guard-rails and toe-boards on all sides, subject to the reservations that—

- (a) on the side facing the wall the guard-rail need not be at a height of more than 70 cm. if the work does not allow of a greater height ;
- (b) the guard-rail and toe-boards shall not be compulsory on the side facing the wall if the workers sit on the platform to work, but in such case the platform shall be provided with cables, ropes or chains affording the workers a firm handhold and capable of holding any worker who may slip.

15. The space between the wall and the platform shall be as small as practically possible except where workmen sit on the platform during their work, in which case it shall not exceed 45 cm.

Regulation 19.—Gangways, Runs and Stairs.

1. Every gangway or run any part of which is more than 2 m. above the ground or floor shall be—
 - (a) closely boarded or planked; and
 - (b) at least 50 cm. wide.
2. The maximum slope of any gangway or run shall be 60 cm. per metre.
3. Where the gangway or run is used for the passage of materials there shall be maintained a clear passageway which—
 - (a) is adequate in width for transport of materials without the removal of the guard-rails and toe-boards; and
 - (b) is in any case of a width not less than 60 cm.
4. All planks forming a gangway or run shall be so fixed and supported as to prevent undue or unequal sagging.
5. When the slope renders additional foothold necessary, and in every case where the slope is more than 25 cm. per metre, there shall be proper stepping laths which shall—
 - (a) be placed at suitable intervals; and
 - (b) be the full width of the gangway, except that they may be interrupted over a breadth of 10 cm. to facilitate the movement of barrows.
6. Stairs shall be provided with guard-rails throughout their length.
7. Gangways, runs and stairs from which a person is liable to fall a distance exceeding 2 m. shall be provided—
 - (a) with a suitable guard-rail or guard-rails having a cross section of at least 30 cm. fixed at least 1 m. above the gangway, run or stair and so that the vertical opening below any guard-rail does not exceed 85 cm.; and
 - (b) with toe-boards which are of sufficient height to prevent the fall of material and tools from the gangway, run or stair and in no case less than 15 cm. high, and are as close as possible to the gangway, run or stair.

Regulation 20.—General Provisions concerning Platforms, Gangways, Runs and Stairs.

1. Every platform, gangway, run or stairway shall be kept free from any unnecessary obstruction, rubbish, etc.
2. Suitable precautions shall be taken to prevent any platform, gangway, run or stairway from becoming slippery.
3. No part of a working platform, gangway or run shall be supported by loose bricks, drain pipes, chimney pots or other loose or unsuitable material.
4. No working platform, gangway, or run shall be supported by an eaves gutter, a balcony or its coping, a lightning-conductor or other unsuitable parts of a building.
5. No working platform, gangway or run shall be used for working upon until its construction is completed according to these Regulations and the prescribed safeguards properly fixed.

Regulation 21.—Trestle Scaffolds.

1. There shall not be used any trestle scaffold which—
 - (a) is of more than two tiers; or
 - (b) exceeds a height of 3 m. from the ground or floor; or
 - (c) is erected on a suspended scaffold.
2. The width of a trestle scaffold erected on a platform shall be such as to leave sufficient unobstructed space on the platform or the transport of materials or the passage of persons.
3. Trestles shall be firmly fixed so as to prevent displacement.

Regulation 22.—Ladders.

1. Every ladder used as a means of communication shall rise at least 1 m. above the highest point to be reached by any person using the ladder, or creck of the uprights shall be continued to that height to serve as a hand-rail at the top.

2. Ladders shall not stand on loose bricks or other loose packing but shall have a level and firm footing.
3. Every ladder—
 - (a) shall be securely fixed so that it cannot move from its top or bottom points or rest ; or
 - (b) if it cannot be secured at the top, shall be securely fastened at the base ; or
 - (c) if fastened at the base is also impossible, shall have a man stationed at the foot to prevent slipping.
4. The undue sagging of ladders shall be prevented.
5. Ladders shall be equally and properly supported on each upright.
6. Where ladders connect different floors—
 - (a) the ladders shall be staggered ; and
 - (b) a protective landing with the smallest possible opening shall be provided at each floor.
7. A ladder having a missing or defective rung shall not be used.
8. No ladder having any rung which depends for its support on nails, spikes or other similar fixing shall be used.
9. Wooden ladders shall be constructed with—
 - (a) uprights of adequate strength made of wood free from visible defects and having the grain of the wood running lengthwise ; and
 - (b) rungs made of wood free from visible defects and mortised into the uprights, to the exclusion of any rungs fixed only by nails.
10. Roofers' and painters' ladders shall not be used by workmen in other trades.

Regulation 23.—Fencing of Openings.

1. Every opening left in a floor of a building or in working platform for an elevator shaft or stairway, or for the hoisting of material, or for access by workmen or for any other purpose shall be provided—
 - (a) with a suitable guard-rail or guard-rails having a cross-section of at least 30 cm.³ fixed at least 1 m. above the floor or platform, and so that the vertical opening below any guard-rail does not exceed 85 cm. ;
 - (b) with toe-boards which are of sufficient height to prevent the fall of materials and tools from the floor or platform and in no case less than 15 cm. high and are as close as possible to the floor or platform.
2. Every opening in a wall which is less than 1 m. from the floor or platform shall be provided—
 - (a) with a suitable guard-rail or guard-rails, having a cross-section of at least 30 cm.³ and fixed at least 1 m. above the floor or platform ; and so that the vertical opening below any guard-rail does not exceed 85 cm. ; and
 - (b) when necessary, with toe-boards which are of sufficient height to prevent the fall of material and tools and in no case less than 15 cm. high and are as close as possible to the lower side of the opening.
3. The fencing of openings shall, except in so far as its removal is permitted by the following paragraph, remain in position until it becomes necessary to remove it in order to complete the permanent enclosure.
4. The fencing of openings shall not be removed except for the time and to the extent required to allow the access of persons or the transport or shifting of materials and shall be replaced immediately after.
5. When work is done on or over open joisting, the joisting shall be securely boarded over or other effective measures shall be taken to prevent falls of persons.

Regulation 24.—Roof Work.

1. No person shall be employed on any roof on which, by reason of the pitch, the nature of the surface, or state of the weather, there is a risk of falling, unless suitable precautions are taken to prevent the fall of persons or materials.
2. On glass roofs, or roofs covered with fragile materials, special precautions shall be taken to prevent the workers from inadvertently stepping on them and to facilitate the safe carrying out of repairs.

3. (i) Only experienced workmen who are physically and psychologically suitable shall be employed on extensive work on the outside of any roof which has a pitch of over 34° (2 : 3) or is slippery.

(2) When persons are so employed—

(a) whenever possible the following facilities shall be provided :

(i) suitable guard-rails ;

(ii) a suitable working platform, securely, supported and of a width of not less than 40 cm. ; and

(iii) suitable, sufficient and properly secured ladders, duck ladders or crawling boards ;

(b) whenever it is impossible to provide the facilities specified in sub-paragraph a)—

(i) safety belts with ropes enabling the wearers to lash themselves to a solid structure shall be supplied to the workers and used by them ; and

(ii) if the safety rope cannot be fixed to a solid structure a second person shall be provided to hold the rope in a secure manner.

Regulation 25.—Miscellaneous Provisions.

1. Any part of the premises where any person at work or passing is liable to be struck by materials, tools or other articles falling more than 3·5 m. shall be covered in such a manner as to protect such persons, unless other effective steps are taken to prevent falls of objects from such height.

2. Scaffold materials, tools, or other objects shall not be thrown down, but be properly lowered.

3. Safe means of access shall be provided to all working platforms and other working places.

4. Every working-place and other place to which access is required for any person and every means of approach thereto shall be efficiently lighted.

5. When necessary, special lighting shall be provided at all parts of scaffolds and structures where materials are hoisted.

6. During all construction, repair, alteration, maintenance or demolition of buildings, all necessary precautions shall be taken to prevent the workers from coming into contact with electric wires or equipment, including low-tension wires and equipment.

7. Protruding nails shall be knocked in or removed from all materials used in the construction of scaffolding or falsework.

8. No materials on the site shall be so stacked or placed as to cause danger to any person.

PART II : HOISTING APPLIANCES.

Regulation 26.—General Provisions.

1. Every part of the structure, working gear and anchoring and fixing appliances of every crane, crab and winch and of all other hoisting machines and tackle shall—

(a) be of good mechanical construction, sound material and adequate strength and substance and free from defect ;

(b) be kept in good repair and in good working order ; and

(c) as far as the construction permits be examined in position at least once in every week by the driver or other competent person.

2. Adequate steps shall be taken to ascertain the safe working load of every hoisting appliance.

3. The maximum safe working load shall be plainly marked—

(a) upon every crab, winch and pulley block used in the hoisting or lowering of any load ;

(b) upon every derrick pole or mast used in the hoisting or lowering of any load weighing 1,000 kg. or more ; and

(c) upon every crane.

4. In the case of a crane fitted with a derricking jib, the safe working load at various radii of the jib shall be plainly marked upon it.

5. A crane, crab, winch or any other hoisting appliance, or any part of such appliance, shall not, except as permitted by the following paragraph, be loaded beyond the safe working load.

6. For the purpose of making tests of a crane or other hoisting appliance or gear the safe working load may be exceeded by such amount as the competent person appointed to carry out the tests may authorise.

7. During hoisting operations effective precautions shall be taken to prevent any person from standing or passing under the load.

8. No load shall be left suspended from a hoisting appliance unless there is a competent person actually in charge while the load is so suspended.

9. Every crane driver or hoisting appliance operator shall be properly qualified.

10. No person under 18 years of age shall be in control of any hoisting machine, including any scaffold winch, or give signals to the operator.

11. Under normal working conditions one person only shall be appointed as being responsible for the giving of all signals to the crane driver.

12. When any hoisting or lowering is performed by means of a crane and the crane driver or person operating the crane is unable to see the load in all its positions one or more look-out or signal men shall be stationed so as to see the load throughout its travel and give the necessary signals to the crane driver or person operating the crane.

13. (1) For each operation to be performed there shall be a distinctive signal of such a character that the person to whom it is given shall be able to hear or see it easily.

(2) Where a sound, colour or light signal is used, it shall be made by an efficient device.

(3) Every signal wire shall be adequately protected from accidental interference.

14. Motors, gearing, transmissions, electric wiring and other dangerous parts of hoisting appliances shall be provided with efficient safeguards which shall not be removed while the machine or apparatus is in use. If the safeguards have to be removed they shall be replaced as soon as possible by the persons removing them and in any case before the machines and apparatus are again taken into normal service.

15. The driver of every crane or similar hoisting appliance shall be provided with a safe and covered stand, cab or cabin.

16. (1) Where reasonably practicable the driver's cab on every crane or other hoisting machine shall before the crane or other hoisting machine is put into general use, be completely erected or adequate provision made for the protection of the driver from the weather.

(2) During cold weather the cabin of every power-driven crane or other hoisting appliance in use shall be adequately heated by suitable means.

Regulation 27.—Winches, Crabs and Pulleys.

1. Every part of the framework or every crab or winch, including the bearers shall be of metal.

2. When wire ropes are used, the diameter of the pulleys or drums shall not be less than 400 times the diameter of the wires in the rope excluding the core of the rope.

3. When winch drums are grooved—

(a) the radius of the grooves shall be approximately the same as, but not less than, the radius of the rope; and

(b) the pitch of the grooves shall not be less than the diameter of the rope.

4. Winch drums shall be provided with flanges that prevent the rope from slipping off the drum.

5. Every crane, crab and winch shall be provided with an efficient brake or brakes and with any other safety device required to prevent the fall of the load when suspended.

6. On every crab or winch the control lever shall be provided with a suitable locking device.

7. On steam-driven lifting engines the lever controlling the link motion reversing gear shall be provided with a suitable spring-lock arrangement.

Regulation 28.—Suspension and Attachment.

1. All cables or ropes used on hoisting appliances for raising or lowering materials shall be long enough to leave at least two turns on the drum at every operating position of the appliance.
2. No rope shall be used over a grooved drum or pulley if its diameter exceeds the pitch of the drum grooves or the width of the pulley groove.
3. Wire ropes shall be such as to have a factor of safety of at least six under the maximum load. In calculating the dimensions of wire ropes the ropes shall be assumed to be under tensile stress only.
4. No chain or wire rope which has a knot tied in it shall be used for raising or lowering any load.
5. Every hoisting or derricking rope or chain shall be securely fastened to the barrel of the crane, crab or winch with which it is used.
6. Each temporary attachment or connection of a rope, chain or other appliance used in the erection or dismantling of a crane shall be adequate and secure.
7. Every rope used in hoisting or lowering or as a means of suspension shall be of suitable quality and adequate strength and in good condition.
8. Every chain, ring, hook, shackle, swivel and pulley block used for hoisting or lowering or as a means of suspension shall have been tested and be marked in plain figures and letters with the safe working load and an identification mark.
9. No gear used for attachment or as a means of suspension shall be loaded beyond its safe working load, except for the purpose of making tests.
10. Every chain, ring, hook, shackle and swivel used in hoisting or lowering or as a means of suspension which has been lengthened, altered or repaired by welding shall be adequately tested and examined before being again taken into use.
11. Every hook used for hoisting or lowering shall either —
 - (a) be provided with an efficient catch to prevent the displacement of the sling or load from the hook; or
 - (b) be of such shape as to reduce as far as possible the risk of such displacement.
12. The parts of hooks liable to come into contact with ropes or chains during the raising or lowering of loads shall be rounded.
13. Where double or multiple slings are used for hoisting or lowering purposes the upper ends of the slings shall be connected by means of a shackle or ring and not be put separately into a lifting hook; this requirement shall not apply when the total load lifted is less than one-half of the safe working load of the hook.
14. When bulky objects are being raised or lowered the maximum safe load of slings shall be determined with reference, not only to their strength, but also to the angle of the legs.
15. Sharp edges of a load shall not be in contact with slings, ropes or chains.
16. All chains, ropes, slings and other gear used for hoisting or lowering or as a means of suspensions shall be periodically examined by a competent person and this person's findings shall be entered on a certificate or in a special register.

Regulation 29.—Cranes.

1. The stage for every crane shall be built of sound material and be of good mechanical construction having regard to its height and position and to the lifting and reaching capacity of the crane.
2. The platform of every crane shall—
 - (a) be close-planked or plated;
 - (b) be securely fenced according to these Regulations;
 - (c) be provided with safe means of access; and
 - (d) be of sufficient area—
 - (i) in all cases, for the driver or operator and signalman; and
 - (ii) in the case of a guy derrick crane, also for the operator of the slewing mechanism.
3. (1) Every fixed crane shall either be securely anchored or be adequately weighted by suitable ballast firmly secured to ensure stability.

(2) when a crane is weighted by ballast a diagram showing the position and size of the counterweights shall be posted up in the driver's cab.

(3) Every travelling crane shall be provided with a device for anchoring it to the rails or the crane track.

4. On every stage, gantry or other place on which a crane moves there shall in so far as practicable be maintained at every position of the crane an unobstructed passageway of a width of at least 60 cm. between the moving parts of the crane and the fixed parts or edge of such stage, gantry or place.

5. If at any time it is impracticable to maintain a passageway of a width of at least 60 cm. at any place or point all reasonable steps shall be taken to prevent the access of any person to such place or point at such time.

6. All rails on which a travelling crane moves shall be of adequate section and have an even running surface.

7. The following requirements shall apply to every track of a travelling crane, whether resting on the ground or raised above the ground—

(a) the whole track shall be properly laid ;

(b) all the supports shall be of sufficient strength and be maintained in good condition ; and

(c) the ends of the track shall be provided with shoes or buffers.

8. All rails on which a travelling crane moves shall, unless other adequate steps are taken to ensure the proper junction of, and to prevent any material alteration in the gauge of, the rails—

(a) be jointed by fish-plates or double chairs ; and

(b) be securely fastened to sleepers.

9. The track and turntable of every travelling crane shall be installed with the greatest care and in conformity with sound technical principles.

Regulation 30.—Examination of Cranes—Certificates.

1. No crane shall be used unless it has been tested and examined by a competent person acting for the inspection authority and there has been obtained from the person who made the test and examination a certificate thereof specifying the safe working load at various radii of the jib, including the maximum radius at which the jib can be worked.

2. The examinations and tests required by this Regulation shall be repeated—

(a) at such regular intervals as are prescribed by the competent authority ; and

(b) after all substantial alterations or repairs to the crane.

3. The safe working load at any radius specified in the most recent certificate—

(a) shall not be more than 80 per cent. of the maximum load which the crane has stood at that radius during the application of the test ; and

(b) shall not be greater than the working load indicated by the maker.

Regulation 31.—Derrick Cranes.

1. The maximum radius at which the jib may be worked shall be clearly indicated on every derrick crane.

2. When the jib is at the maximum radius there shall not be less than two dead turns of rope on the derricking drum.

3. The jib of a Scotch derrick crane shall not be erected between the back stays of the crane.

4. Every crane having a derricking jib shall be provided with an effective interlocking arrangement between the derricking clutch, and the pawl sustaining the derricking drum, except there—

(a) the hoisting drum and the derricking drum are independently driven ; or

(b) the mechanism driving the derricking drum is self-locking.

5. Where the guys of a guy derrick crane cannot be fixed at approximately equal spacing, such other measures shall be taken as will ensure the safety of the crane.

The whole of the appliances for the anchorage of a crane shall be examined on each occasion before the crane is erected.

7. The erection of cranes shall be supervised by a competent person.
8. Each crane shall after each erection on a building site and before use be tested *in situ* for anchorage by a competent person.
9. Cranes shall be tested for anchorage by the imposition on each anchorage of the maximum uplift or pull exerted either—
- (a) by a load of 25 per cent. above the maximum load to be lifted by the crane as erected; or
 - (b) by a less load arranged to exert and equivalent pull on the anchorage.
10. If the pull applied by the test to any anchorage is less than 25 per cent. in excess of the pull which would be exerted by the maximum safe working load, a loading diagram appropriate to the crane anchorage shall be affixed in a position where it can readily be seen by the crane driver.

Regulation 32.—Automatic Safe Load Indicators.

1. No jib crane whether having a fixed jib or a derricking jib shall be used unless it is fitted with an automatic indicator which—
- (a) indicates clearly to the driver or person operating the crane when the load being moved approaches the safe working load of the crane at any inclination of the jib; and
 - (b) gives an efficient sound signal when the load being moved is in excess of the safe working load of the crane at any inclination of the jib.
2. The preceding paragraph does not apply to—
- (a) any guy derrick crane;
 - (b) any hand crane which is being used solely for erecting or dismantling another crane; or
 - (c) any crane having a maximum safe working load of 1,000 kg. or less, but in all such cases a table showing the safe working loads at various radii of the jib shall be kept attached to the crane.

Regulation 33.—Various rules concerning Crane Operation.

1. (1) A crane shall not be used otherwise than for direct lifting or lowering of a load unless its stability is not thereby endangered.
- (2) No load which lies in the angle between the back stays of a Scotch derrick crane shall be moved by that crane.
2. Where more than one crane or winch is required to lift or lower one load—
- (a) the machinery, plant and appliances used shall be so arranged and fixed that no such crane or winch shall at any time be loaded beyond its safe working load or be rendered unstable in the hoisting or lowering of the load; and
 - (b) a person shall be specially appointed to co-ordinate the operation of the appliances working together.
3. When a load is thought to approach the maximum safe working load a trial shall be made by raising the load a short distance to ensure that the hoisting appliance can carry it safely.

Regulation 34.—Hoists.

1. Hoists (*i.e.*, lifting appliances provided with a cage or platform that runs in guides used for raising and lowering materials shall satisfy the requirements of this Regulation.
2. (1) Hoist shafts shall be provided with solid walls or other equally effective fencing—
- (a) at the ground level on all sides; and
 - (b) at all other levels on all sides to which access is provided.
- (2) The walls of hoist shafts, except at approaches, shall extend at least 2 m. above the floor, platform or other place to which access is provided.
3. Approaches to hoists shall be provided with solid gates or other equally effective fencing which—
- (a) are at least 1 m. high; and
 - (b) close automatically when the hoist platform leaves the landing.
4. Approaches to hoists shall be adequately lighted.

5. The guides of hoist platforms shall offer sufficient resistance to bending and in the case of jamming by a safety catch, to buckling.
6. The platform shall be so constructed that safe transport is ensured.
7. On platforms for truck transport the trucks shall be efficiently blocked in safe position on the platform.
8. Counterweights consisting of an assemblage of several parts shall be made of specially constructed parts rigidly connected together.
9. The counterweight shall run in guides.
10. If two or more wire ropes are used the load shall be equally distributed between them.
11. Each suspension rope shall be in one piece.
12. The rope ends shall be fastened to the platform attachment by splicing and tight binding with steel wire, by sealing or by clamping with the aid of rope clamps; wherever possible, thimbles shall be used.
13. Drum anchorages of suspension ropes shall be adequate and secure.
14. Ropes shall be long enough to leave at least two turns on the drum when the cage or platform is at its lowest position, and be of such diameter as to have a safety factor of at least eight under the maximum load.
15. When wire ropes are used, the diameter of the pulleys or drums shall not be less than 400 times the diameter of the wires in the rope.
16. When winch drums are grooved—
 - (a) the radius of the grooves shall be approximately the same as, but not less than, the radius of the rope; and
 - (b) the pitch of the grooves shall not be less than the diameter of the rope.
17. Winch drums shall be provided with flanges that prevent the rope from slipping off the drum.
18. It shall not be possible to reverse the motion of the hoist without first bringing it to rest.
19. It shall not be possible to set the hoist in motion from the platform.
20. Pawls and ratchet wheels with which the pawl must be disengaged before the platform is lowered shall not be used.
21. Where the person operating the hoist cannot see clearly every position of the platform, arrangements shall be made for effective signals to be given to the hoist operator by a responsible person who can see the platform at each position.
22. (1) When the platform is at rest the brake shall be applied automatically.
(2) During loading and unloading the platform shall be blocked by catches or other devices in addition to the brake.
23. Hoists shall be provided with devices that stop the winding engine as soon as the platform reaches its highest stopping place.
24. Above the highest stopping-place a clearance shall be provided high enough to allow sufficient unobstructed travel of the cage or platform in case of overwinding.
25. (1) No hoist shall be used unless it has been tested and examined by a competent person and a certificate of such test and examination has been issued by that person in the prescribed form.
(2) Such test and examination shall be repeated—
 - (a) at such regular intervals as are prescribed by the competent authority; and
 - (b) after every substantial alteration or repair and every re-erection.
26. (1) The above provisions apply only to hoists used for raising or lowering materials.
(2) No hoist shall be used for the conveyance of persons unless—
 - (a) such use has been authorised by the competent authority; or
 - (b) the hoist complies with the conditions laid down for the installation and operation of lifts used for the conveyance of persons in industrial undertakings.

27. The following notices shall be posted up conspicuously and in very legible characters ;

(a) on all hoists :

(i) on the platform : the carrying capacity in kilograms or other appropriate standard term of weight ; and

(ii) on the winding engine : the lifting capacity in kilograms or other appropriate standard term of weight ;

(b) on hoists authorised or certified for the conveyance of persons :

on the platform or cage : the maximum number of persons to be carried at one time ;

(c) on hoists for goods only :

on every approach to the hoist : " Goods Hoist ! Use by persons prohibited. "

Regulation 35.—Miscellaneous Provisions.

1. Precautions shall be taken to safeguard the workmen examining or lubricating a crane or hoist.

2. No person shall be lifted or carried by a crane except on the driver's platform or ride in a barrow hoist or in a hod hoist.

3. Every part of a load in course of being hoisted or lowered shall be adequately suspended and supported so as to prevent danger.

4. (1) Every receptacle used for hoisting bricks, tiles, slates or other material shall be so closed as to prevent the fall of any of the material.

(2) If loose materials or loaded wheelbarrows are placed directly on a platform for raising or lowering, the platform shall be closed in.

(3) Materials shall not be raised, lowered or slewed in such a way as to cause sudden jerks.

5. In hoisting a barrow, the wheel shall not be used as a means of support, unless efficient steps are taken to prevent the axle from slipping out of the bearings.

6. When a special ginpole is used, it shall be secured by ropes in such a way that it cannot knock against the scaffolds.

7. Jibs for hoisting materials shall not be attached to standards or extension poles.

8. When no jib but only a rope pulley is used the latter may be attached to a cross beam if the cross-beam—

(a) has sufficient strength and is fixed to at least two standards or extensions in the way prescribed for ledgers ; and

(b) does not at the same time serve as a ledger for the scaffold.

9. If a hoisting appliance or any part thereof moves along a scaffold, adequate measures shall be taken to prevent persons on the scaffold from being struck by the appliance or any part of it.

10. The hoisting of loads at points where there is a regular flow of traffic shall be carried out in an enclosed space, or if this should be impossible (e.g., in the case of bulky objects), measures shall be taken to hold up or divert the traffic for the time being.

11. Adequate steps shall be taken to prevent a load in course of being hoisted or lowered from coming into contact with any objects in such a manner that part of the load or object may become displaced.

PART III.—SAFETY EQUIPMENT AND FIRST AID.

Regulation 36.—Safety Equipment.

1. Where necessary the employer shall provide the workmen with a sufficient number of respirators, goggles and safety belts of approved types.

2. Safety belts shall have life lines of sufficient length and strength.

Regulation 37.—Rescue Equipment.

When work is carried on in proximity to any place where there is a risk of drowning, all necessary equipment shall be provided and kept ready for use, and all necessary steps taken for the prompt rescue of any person in danger.

Regulation 38.—First-Aid Equipment.

1. On every place where building work is carried on, adequate provision, such as first-aid boxes or cupboards readily accessible and clearly marked, shall be made for the prompt treatment of all injuries likely to be sustained in the course of the work.

2. Such first-aid boxes or cupboards shall be placed under the charge of a responsible person who shall preferably be trained in first-aid.

PART IV.—MISCELLANEOUS.

Regulation 39.—Communication of Regulations to Workers.

Copies of these Regulations or such extracts thereof as may be prescribed by the competent authority shall be handed to the workers or conspicuously posted up and maintained at suitable places.

Regulation 40.—Duty of Employers to comply with Parts I to III.

It shall be the duty of the employer to comply with Parts I to III of these Regulations.

Regulation 41.—Co-operation of Workers and Other Persons with the Employer.

1. Every person employed and every person in or upon the work shall co-operate with the employer in carrying out these Regulations.

2. Every person employed shall forthwith remedy or report to the employer or foreman any defect that he may discover in the plant or appliances, or any action by any person liable to cause an accident.

3. No person shall interfere with, displace, take away, damage or destroy any of the plant or safeguards required by the foregoing Regulations without the authority of the employer or his responsible foreman.

4. Every person employed shall make proper use of all safeguards, safety devices or other appliances furnished for his protection and shall obey all safety instructions pertaining to his work.

5. Every worker shall take the necessary precautions for his own safety and for the safety of any other person on the site and abstain from any action which might endanger him or other persons.

6. No employed person shall go to or from his workplace otherwise than by the safe means of access and egress provided.

9. Recommendation concerning inspection in the building industry.

Formal preamble has been omitted.

Whereas the Safety Provisions (Building) Convention, 1937, and the Safety Provisions (Building) Recommendation, 193 , contain provisions relating to labour inspection ;

Whereas the Conference adopted at its Fifth Session (1923) a Recommendation concerning labour inspection ;

Whereas it is nevertheless desirable that as regards the building industry the attention of Members should be drawn to certain other provisions not included in the above-mentioned Convention and Recommendations ;

The Conference recommends that each Member of the International Labour Organisation should take the following principles and rules into consideration as regards inspection in the building industry :

1. All work in connection with the construction, repair, alteration, maintenance and demolition of buildings of all kinds should be subject to inspection.

2. The authority responsible for inspection (hereinafter called the inspection authority) should be a public body and should have all powers necessary to ensure that the laws and regulations in force are strictly applied.

3. Inspectors should have previous technical training and have passed examinations covering all suitable technical and administrative matters which should ensure that they are competent to supervise effectively the enforcement of the safety regulations for the workers employed in the building industry.

4. In order to ensure effective collaboration between the inspection authority and the head of the undertaking, national laws or regulations should make the head of the undertaking responsible—

- (a) for providing for constant and adequate supervision of the work so as to ensure compliance with the safety provisions in force ;
- (b) for taking all other practicable steps necessary to prevent accidents, and in particular for not employing on work likely to involve risk of accidents any person whom he knows to be deaf, of defective vision, or liable to giddiness ;
- (c) for informing the inspection authority, in conformity with the national laws or regulations, of the commencement of all building operations undertaken by him ; and
- (d) for reporting to the competent authority, in accordance with the national laws or regulations, accidents occurring in the undertaking.

10. Recommendation concerning co-operation in accident prevention in the building industry.

Formal Preamble has been omitted.

Whereas it is considered that in addition to the Safety Provisions (Building) Convention, 1937, the Safety Provisions (Building) Recommendation, 1937, the Inspection (Building) Recommendation, 1937, and the Prevention of Industrial Accidents Recommendation, 1929, it is desirable to make specific recommendation concerning the prevention of accidents in the building industry by means of safety organisations ;

The Conference recommends that each Member of the International Labour Organisation should take the following principles and rules into consideration in connection with accident prevention in the building industry ;

1. There should be established safety organisations within the industry to secure the collaboration of all concerned in effecting a reduction in the number and severity of accidents with particular regard to accident risks for which there are no statutory requirements.

2. In order to render this collaboration effective there should be set up within each undertaking, where it is possible a special safety organisation including representatives of the employer and the persons employed.

3. It would also be desirable to have direct collaboration between the competent inspector, the employer and the representatives of the persons employed in the undertaking in the form and within the limits fixed by the inspection authority.

4. Safety propaganda in the building industry would be more effective if there were constant co-operation between the inspection authority and all the organisations concerned : safety organisations (joint or separate) of employers and workers ; trade unions and employers' associations ; associations of architects or engineers ; standards association, etc ; accident insurance institutions (public, semi-official or private).

5. (1) Periodical meetings should be held by representatives of the organisations mentioned in the preceding paragraph and representatives of the inspection authority together with representatives of any other public bodies concerned.

(2) The purpose of such meetings should be to examine jointly the methods that might be taken to improve accident prevention in the building industry.

6. The inspection authority should promote accident prevention by collaborating with all parties concerned in the necessary propaganda, which might take such forms as safety education by training courses, demonstrations, meetings, lectures and films ; the distribution of manuals, pamphlets, magazines or publications reproducing or analysing accident statistics ; and the distribution of posters and notices which should as far as possible be illustrated.

11. Recommendation concerning vocational education for the building industry.

The Conference,

Recalling that at its Twelfth Session (1929) it adopted a Recommendation concerning the prevention of industrial accidents, one part which deals with vocational education ;

Considering that in view of the risk of accident, vocational education is of special importance in the case of the building industry ;

Recommends that technical and vocational school curricula relating to the building industry should include theoretical and practical instruction concerning—

- (a) the materials used for the construction of scaffolds and the principles of erecting and maintaining scaffolds ;
- (b) the construction and maintenance of the hoisting appliances used in the building industry ;
- (c) the organisation and supervision of safety measures on building sites ; and
- (d) the safety regulations for building work.

STATEMENT.

The following statement gives particulars of the course which the Government of India propose to follow in respect of the Draft Conventions and Recommendations adopted by the Twenty-third Session of the International Labour Conference held at Geneva in June 1937 :—

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| <p>I. (a) Recommendation concerning international co-operation in respect of public works.</p> | <p>I. (a) The Government of India propose to inform the International Labour Office that they are not convinced that international co-operation is essential to effective action in respect of advance planning of public works but that they will be prepared, if the Committee contemplated in the Recommendation is set up, to consider the question of co-operation with it and to examine, in consultation with provincial Governments, the possibility of supplying such statistics as may be wanted.</p> |
| <p>(b) Recommendation concerning the national planning of public works.</p> | <p>(b) The Recommendation is one which contemplates administrative rather than legislative action and the Government of India propose to forward the Recommendation to the Provincial Governments.</p> |
| <p>II. (a) Draft Convention fixing the minimum age for admission of children to industrial employment (revised 1937).</p> | <p>II. (a) The possibility of ratifying the Draft Convention is under examination. Fresh legislation would be required for this purpose and if ratification is contemplated, legislative proposals will be made in the Central Legislature.</p> |
| <p>(b) Recommendation concerning the minimum age for admission of children to employment in family undertakings.</p> | <p>(b) No action is required in respect of the Recommendation as the Indian laws do not contain special provisions for family undertakings.</p> |

- III. Draft Convention concerning the age for admission of children to non-industrial employment (revised 1937).
- III. No Resolution will be moved by Government. The subject was considered by the Council of State in 1932 in connection with the Minimum age (non-industrial employment) Convention, 1932, of which this is a revision. It was then decided that the Convention should not be ratified. The evolution of the Convention with its special Article 9 for India is set out in paragraphs 38 and 39 of the Report of the Delegates of the Government of India. The Convention prevents employment of children under 13 in (a) shops, offices, hotels or restaurants, (b) places of public entertainment, and (c) any other non-industrial occupation to which the provisions of the Convention may be extended by the competent authority. The Government of India do not believe that all-India legislation on the comprehensive lines indicated by the Convention is called for in existing Indian conditions. In their opinion young children employed in unregulated small power factories and workshops have prior claim to protection. The Convention will, however, be forwarded to Provincial Governments for consideration.
- IV. Draft Convention concerning the reduction of hours of work in the textile industry.
- IV. The Draft Convention is an application of the general principle of the 40 hours week which has been rejected by the Council of State and no Resolution will be moved by Government.
- V. (a) Draft Convention concerning safety provisions in the building industry.
- V. A Resolution on the subject was moved in the Council of State on the 2nd March, 1938 and adopted.
- (b) Recommendation concerning safety provisions in the building industry.
- (c) Recommendation concerning inspection in the building industry.
- (d) Recommendation concerning co-operation in accident prevention in the building industry.
- (e) Recommendation concerning vocational education for the building industry.

COMMERCIAL TREATIES AND NOTES AFFECTING INDIA.

THE HONOURABLE MR. H. DOW (Commerce Secretary): Sir, I beg to lay on the table a further list of Commercial Treaties and Notes affecting India. The Agreements mentioned in items Nos. 1 and 4 of Part II of the Statement are also laid on the table.

PART I.

Agreements under which the products and manufactures of India receive most-favoured-nation treatment on terms of reciprocity.

Countries which are parties to the Agreement.	Date of Agreement.	Nature of Agreement.	Description.	Remarks.
1. United Kingdom and Egypt.	13th and 14th February, 1937.	Exchange of Notes.	Commerce	These Notes provide for the prolongation until February 16, 1938 of the Provisional Commercial Agreement concluded between these Governments by the exchange of Notes dated the 5th and 7th June, 1930.
2. United Kingdom and Siam.	13th November, 1937.	Do.	Commerce and Navigation.	These notes provide for the prolongation, for a period of 4 months from 4th November, 1937, of the treatment accorded under the Anglo-Siamese Treaties of 1925 in respect of subjects, vessels, companies and goods.
3. United Kingdom and Siam.	23rd November, 1937.	Treaty	Do.	Article 25 (1) of this Treaty provides for the grant of most-favoured-nation treatment to Indian goods on terms of reciprocity.

PART II.

Agreements to which India is a party.

1. India and Japan	12th October, 1937.	Protocol and exchange of Notes.	Commercial relations.	The Protocol regulates the importation of Japanese cotton piece-goods into India until 31st March, 1940 and the Notes of Exchange provide for the prolongation of the Indo-Japanese Commercial Convention of 1934 until at least that date.
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The Convention can be made to continue beyond that date by both Parties simply refraining from giving six months' notice of termination.

Countries which are parties to the Agreement.	Date of Agreement.	Nature of Agreement.	Description.	Remarks.
2. United Kingdom and Muscat. Do.	11th February, 1937. 27th November, 1937.	Notes of Exchange.	Treaty of Friendship, Commerce and Navigation.	The Anglo-Muscat Treaty of 1891 which applies to India has been extended by Notes of Exchange up to 10th February 1939, unless another treaty is concluded and ratified in the meantime.
3. International Agreement. (Union of South Africa, Commonwealth of Australia, Belgium, Brazil, United Kingdom, China, Cuba, Czechoslovakia, Dominican Republic, France, Germany, Haiti, Hungary, India, Netherlands, Peru, Poland, Portugal, Union of Soviet Republics, U. S. A., Commonwealth of Philippines, and Yugoslavia).	6th May, 1937.	Agreement and protocol annexed thereto.	Regulation of Production and Marketing of Sugar.	The Agreement has been ratified by India and will remain in force for a period of five years.
4. India and the Union of South Africa.	8th March, 1938.	Exchange of Notes.	Commercial Relations.	The Notes provide for mutual most-favoured-nation treatment in respect of commodities not eligible for preferential treatment in virtue of one or other of the Ottawa series of agreements. The agreement took effect from 29th March 1938, and will remain in force until superseded by a more comprehensive commercial agreement or till after three months' notice of termination by either side.

PART III.

Denunciation of Agreements.

Nil.

PROTOCOL REGARDING COMMERCIAL RELATIONS BETWEEN INDIA AND JAPAN, WITH
EXCHANGE OF NOTES.

London, October 12, 1937.

WHEREAS the Protocol regarding the importation of Japanese cotton piece-goods into India, signed in London on the 12th day of July, 1934, (1) ceased to be in force as from the 31st day of March, 1937; and

Whereas it is desired to conclude a new Protocol regarding this matter;

The undersigned, being duly authorised to that effect, have agreed as follows :—

ARTICLE 1.

For the purposes of the present Protocol—

the expression "cotton year" means a year beginning on the 1st day of January;

the expression "cotton piece-goods year" means a year beginning on the 1st day of April;

a cotton piece-goods year and the cotton year in which that cotton piece-goods year begins are referred to as "corresponding"; and

the expression "yard" means a linear yard.

ARTICLE 2.

The customs duties to be imposed on importation into India of cotton piece-goods manufactured in Japan shall not exceed the following rates :—

(a) plain greys—50 per centum *ad valorem* or 5½ annas per pound whichever is higher;

(b) others—50 per centum *ad valorem*.

If hereafter the Government of India should decide to impose a specific duty on cotton piece-goods other than plain greys, it will not impose on such piece-goods, being the manufacture of Japan, a specific duty exceeding 5½ annas per pound.

ARTICLE 3.

(1) If in any cotton year 1 million bales of raw cotton are exported from India to Japan, the quantity of cotton piece-goods which may be exported from Japan to India in the corresponding cotton piece-goods year shall be a basic allotment of 283 million yards.

(2) If the exports of raw cotton from India to Japan in any cotton year are less than 1 million bales, the allotment of cotton piece-goods for the corresponding cotton piece-goods year shall be the basic allotment diminished by 2 million yards for every 10,000 bales of the deficit or for any residual quantity thereof exceeding 5,000 bales.

(3) If the exports of raw cotton from India to Japan in any cotton year exceed 1 million bales, the allotment of cotton piece-goods for the corresponding cotton piece-goods year shall be the basic allotment increased by 1½ million yards for every 10,000 bales of the excess or for any residual quantity thereof exceeding 5,000 bales;

Provided that the allotment of cotton piece-goods shall not in any case exceed 358 million yards for any cotton piece-goods year.

(4) If the exports of raw cotton from India to Japan in any one cotton year exceed 1½ million bales, the excess shall be added to the quantity of raw cotton exported from India to Japan in the immediately following cotton year for the purpose of determining the allotment of cotton piece-goods for the cotton piece-goods year corresponding to such following cotton year.

(5) For the purpose of the calculations under the present Article any raw cotton which has been imported into Japan and then exported shall be excluded.

ARTICLE 4.

(1) The allotment of cotton piece-goods which may be exported from Japan to India during the first half of any cotton piece-goods year shall be 179 million yards;

(1) "Treaty Series No. 31 (1934)", Cmd. 4735.

Provided that if in the first half of any cotton piece-goods year the exports of cotton piece-goods from Japan to India exceed the allotment for the whole of that cotton piece-goods year, the allotment for the first half of the following cotton piece-goods year shall be 179 million yards less such excess.

(2) The allotment of cotton piece-goods which may be exported from Japan to India during the second half of any cotton piece-goods year shall be the annual allotment for that year less 179 million yards;

Provided that if the quantity exported from Japan to India in the first half of any cotton piece-goods year is less than 179 million yards as increased or diminished under Article 5, the allotment for the second half of that cotton piece-goods year shall include the quantity of the deficit up to a quantity not exceeding 25 million yards.

(3) For the purposes of the calculations under the present Article and under Articles 5, 7 and 8, any cotton piece-goods which have been imported into India and then exported elsewhere than to Burma shall be excluded.

ARTICLE 5.

Notwithstanding anything hereinbefore contained—

- (a) if less than the allotment for any cotton piece-goods year is exported from Japan to India in that year the quantity of the deficit up to a quantity not exceeding 25 million yards may be exported in the first half of the following cotton piece-goods year in addition to the allotment for that half-year;
- (b) a quantity not exceeding 25 million yards of cotton piece-goods may be exported from Japan to India in the first half of any cotton piece-goods year in addition to the allotment; but such excess shall be deducted from the allotment for the second half of that cotton piece-goods year; and
- (c) a quantity not exceeding 25 million yards of cotton piece-goods may be exported from Japan to India in any cotton piece-goods year, other than the cotton piece-goods year in which the present Protocol terminates, in addition to the allotment for that year; but such excess shall be deducted from the allotment for the first half of the following cotton piece-goods year.

ARTICLE 6.

For the purposes of the present Protocol the first cotton year shall be deemed to commence on the 1st day of January, 1937, and the first cotton piece-goods year on the 1st day of April, 1937.

ARTICLE 7.

(1) For the purposes of the present Protocol cotton piece-goods shall be divided into the five categories of—

- (a) plain greys,
- (b) bordered greys,
- (c) bleached (white) goods,
- (d) coloured printed goods, and
- (e) coloured (dyed or woven) goods;

and the allotment for any cotton piece-goods year shall be divided into sub-allotments among these five categories, consisting of portions of the allotment as follows:

	Per centum.
Plain greys	40
Bordered greys	13
Bleached (white) goods	10
Coloured printed goods	20
Coloured (dyed or woven) goods	17

and, save as provided in paragraph (2), the export of cotton piece-goods in each category in any cotton piece-goods year shall be restricted to the said portions.

(2) Transfers may be made from one sub-allotment to another, subject to the following conditions :

- (a) The allotment for any cotton piece-goods year shall not thereby be increased ;
- (b) The amount transferred from the sub-allotment for bordered greys or from the sub-allotment for bleached (white) goods shall not exceed 20 per centum of the amount of such sub-allotment and the amount transferred from any other sub-allotment shall not exceed 10 per centum of the amount of such sub-allotment ; and
- (c) The sub-allotment for bordered greys or the sub-allotment for bleached (white) goods shall not be increased by more than 20 per centum of the amount of such sub-allotment, and any other sub-allotment shall not be increased by more than 10 per centum of the amount of such sub-allotment.

(3) The principles of the present Article shall apply also to quantities of cotton piece-goods exported from Japan to India under Article 5 in excess of the yearly allotments, as if such quantities were yearly allotments.

ARTICLE 8.

Not more than 8·95 million yards of cotton fents, *i.e.*, *bona fide* remnants not exceeding four yards in length, shall be exported from Japan to India in any cotton piece-goods year, provided that more than this allotment of cotton fents may be exported from Japan to India in any cotton piece-goods year, other than the cotton piece-goods year in which the present Protocol terminates, on condition that the quantity of the excess shall be deducted from the allotment of 8·95 million yards for the following cotton piece-goods year ; and provided further that if less than this allotment of cotton fents is exported from Japan to India in any cotton piece-goods year the quantity of the deficit shall be added to the allotment of 8·95 million yards for the following cotton piece-goods year.

The customs duties to be imposed on importation into India from Japan of cotton fents shall not exceed 35 per centum *ad valorem*.

ARTICLE 9.

Nothing in the present Protocol shall be deemed to affect the rights and obligations arising under the Convention regarding the Commercial Relations between India and Japan of the 12th day of July, 1934 ⁽¹⁾.

ARTICLE 10.

The present Protocol shall come into force immediately on signature and shall remain in force until the 31st day of March, 1940.

Done in London, in duplicate, the twelfth day of October, 1937, corresponding to this twelfth day of the tenth month of the twelfth year of Showa.

ANTHONY EDEN.

ZETLAND.

SHIGERU YOSHIDA.

(1) "Treaty Series No. 31 (1934)", Cmd. 4735.

EXCHANGE OF NOTES.

No. 1.

*Mr. Shigeru Yoshida to Mr. Eden.**Japanese Embassy,**London, October 12 (Showa 12), 1937.*

Sir,

IN view of the fact that the Protocol signed this day regarding the importation of Japanese cotton piece-goods into India is to remain in force until the 31st March, 1940, I have the honour, under instructions from the Japanese Government, to propose that the first paragraph of Article 6 of the Convention regarding the Commercial Relations between Japan and India signed on the 12th July, 1934, (*) should be amended so as to read :—

“ The present Convention shall remain in force until the 31st day of March, 1940 ”.

In the event of the Government of India being willing to agree to this proposal I have the honour to suggest that this note, together with your reply thereto in similar terms, should be regarded as constituting an agreement between the two Governments in regard to this matter.

I have, etc.,

SHIGERU YOSHIDA

No. 2.

*Mr. Eden to Mr. Shigeru Yoshida.**London, October 12 (Showa 12), 1937.*

Your Excellency,

I HAVE the honour to acknowledge the receipt of your note of to-day's date, in which your Excellency proposed, under instructions from the Japanese Government, that the first paragraph of Article 6 of the Convention regarding the Commercial Relations between India and Japan, signed on the 12th July, 1934, should be amended so as to read :—

“ The present Convention shall remain in force until the 31st day of March, 1940 ”.

I have the honour to inform your Excellency that the Government of India are ready to accede to this proposal and agree that this note, together with your Excellency's note under reply, should be regarded as constituting an agreement between the two Governments in regard to this matter.

I have, etc.,

ANTHONY EDEN.

(*) “ Treaty Series No. 31 (1934) ”, Cmd. 4735.

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF THE UNION OF SOUTH AFRICA CONSTITUTING A TEMPORARY COMMERCIAL AGREEMENT.

No. P. M.-55/152, CAPE TOWN, DATED THE 8TH MARCH 1938.

From—The Secretary for External Affairs, Government of the Union of South Africa,

To—The Acting Agent-General for India in the Union of South Africa, Cape Town.

SIR,

With reference to the negotiations which have taken place between our two Governments for the conclusion of a preliminary agreement to regulate the commercial relations between the Union of South Africa and India, I have the honour to confirm that the Government of the Union of South Africa are prepared to conclude a preliminary Commercial Agreement with the Government of India in the following terms :—

1. Articles, the growth, produce or manufacture of the one country, when imported therefrom into the territory of the other country, shall, in respect of customs duties and other taxes and charges levied on imports, and in all matters pertaining to the administration thereof, be treated not less favourably than like articles, the growth, produce or manufacture of any other country; provided that the one Government shall not be entitled to claim the privileges or favours flowing from preferential treatment accorded, or to be accorded by the other Government exclusively to any of the members of the British Commonwealth of Nations or to any possession or territory to any of them belonging or to any territory under the jurisdiction of any such member either as a Protectorate or as a Mandated Territory.

2. In the event of either Government establishing or maintaining a system of licensing or quantitative regulation of imports, such system shall be so administered as not to discriminate against articles, grown, produced or manufactured in the other country, and the conditions under which licences or permits may be issued or obtained for the importation of such articles, shall be not less favourable than those applied in the case of like articles, grown, produced or manufactured in any other country.

3. In the event of either Government establishing or maintaining any form of foreign exchange control, such control shall be administered so as to ensure that the commerce of the other country will be granted a fair and equitable share in the allotment of foreign exchange.

4. The most-favoured-nation treatment provided for shall apply also to taxes or charges levied in connection with the internal distribution and sale of imported articles.

5. Notwithstanding the provisions of this Agreement, either of the two Governments may, where for any reason it is deemed necessary, prohibit or restrict the import of any article by the imposition of special duties or otherwise, provided that no such prohibition or restriction shall be imposed or maintained on articles, grown, produced or manufactured in the other country, unless such prohibition or restriction is imposed or maintained on like articles imported from any other country in regard to which like grounds for the application of such measures exist.

6. The provisions of this Agreement shall not extend to favours actually granted, or, which may hereafter be granted, by the Union of South Africa to any state or territory adjoining the Union of South Africa.

7. It is understood that wherever the term " Union of South Africa " is used in the present Agreement, it shall be deemed to include the Mandated Territory of South-West Africa.

8. This Agreement shall come into force 21 days after the date of this Note, provided, however, that it shall lapse if not ratified by resolution of both Houses of Parliament of the Union of South Africa during the next ensuing Session; and, if so ratified, it shall remain in force until superseded by a more comprehensive commercial agreement, for the conclusion of which the two Governments agree to enter into negotiations as soon as possible, or until the expiration of three calendar months from the date on which notice of termination shall have been given by either Government to the other.

I have the honour to be,

SIR,

Your most obedient servant,

H. D. J. BODENSTEIN,

Secretary for External Affairs.

No. 229, dated Cape Town, 8th March, 1938.

From—The Acting Agent-General for India in the Union of South Africa,

To—The Secretary for External Affairs, Government of the Union of South Africa, Pretoria.

SIR,

I am directed by the Government of India to acknowledge the receipt of your letter of to-day's date and to confirm on their behalf that they are prepared to conclude a preliminary commercial Agreement with the Government of the Union of South Africa in the following terms:—

1. Articles, the growth, produce or manufacture of the one country, when imported therefrom into the territory of the other country, shall, in respect of customs duties and other taxes and charges levied on imports, and in all matters pertaining to the administration thereof, be treated not less favourably than like articles, the growth, produce or manufacture of any other country: provided that the one Government shall not be entitled to claim the privileges or favours flowing from preferential treatment accorded, or to be accorded by the other Government exclusively to any of the members of the British Commonwealth of Nations or to any possession or territory to any of them belonging or to any territory under the jurisdiction of any such member either as a Protectorate or as a Mandated Territory.

2. In the event of either Government establishing or maintaining a system of licensing or quantitative regulation of imports, such system shall be so administered as not to discriminate against articles, grown, produced or manufactured in the other country, and the conditions under which licences or permits may be issued or obtained for the importation of such articles, shall be not less favourable than those applied in the case of like articles grown, produced or manufactured in any other country.

3. In the event of either Government establishing or maintaining any form of foreign, exchange control, such control shall be administered so as to ensure that the commerce of the other country will be granted a fair and equitable share in the allotment of foreign exchange.

4. The most-favoured-nation treatment provided for shall apply also to taxes or charges levied in connection with the internal distribution and sale of imported articles.

5. Notwithstanding the provisions of this Agreement, either of the two Governments may, where for any reason it is deemed necessary, prohibit or restrict the import of any article by the imposition of special duties or otherwise, provide that no such prohibition or restriction shall be imposed or maintained on articles, grown, produced or manufactured in the other country, unless such prohibition or restriction is imposed or maintained on like articles imported from any other country in regard to which like grounds for the application of such measures exist.

6. The provisions of this Agreement shall not extend to favours actually granted, or, which may hereafter be granted, by the Union of South Africa to any state or territory adjoining the Union of South Africa.

7. It is understood that wherever the term "Union of South Africa" is used in the present Agreement, it shall be deemed to include the Mandated Territory of South West Africa.

8. This Agreement shall come into force twenty-one days after the date of this note, provided, however, that it shall lapse if not ratified by resolution of both Houses of Parliament of the Union of South Africa during the next ensuing session; and, if so ratified, it shall remain in force until superseded by a more comprehensive commercial agreement, for the conclusion of which the two Governments agree to enter into negotiations as soon as possible, or until the expiration of three calendar months from the date on which notice of termination shall have been given by either Government to the other.

I have the honour to be,

SIR,

Your most obedient servant,

(Sd.) S. RIDLEY,

Acting Agent-General for India in the Union of South Africa.

STANDING ADVISORY COMMITTEE FOR THE INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

THE HONOURABLE THE PRESIDENT : I have to announce the result of the ballot held yesterday for two Members to serve on the Standing Advisory Committee for the Indian Posts and Telegraphs Department.

For the Honourable Mr. G. S. Motilal 28 votes were cast, for the Honourable Sir David Devadoss 22 votes were cast and for the Honourable Mr. Chidambaram Chettiyar 11 votes were cast. I have therefore to declare the Honourable Mr. G. S. Motilal and the Honourable Sir David Devadoss duly elected.

INDIAN TARIFF (AMENDMENT) BILL.

THE HONOURABLE MR. H. DOW (Commerce Secretary) : Sir, I move :

“That the Bill further to amend the Indian Tariff Act, 1934, for a certain purpose as passed by the Legislative Assembly, be taken into consideration.”

Sir, the object of this Bill is to renew for a further year the duty of 12 annas a maund on broken rice, which would ordinarily have expired on the 31st of March. In the year before this Bill was first introduced, considerable anxiety was caused to the rice growers of the Madras Presidency by the import of something like 400,000 tons of broken rice mainly from Siam and Indo-China : I should rather have said that the 400,000 tons was rice, but most of it was considered to be broken rice. The following year actually 232,000 tons of broken rice were imported. With the aid of the duty that has been imposed the imports of broken rice have been successively reduced first of all to 61,000 tons, in the year following to only 3,000 tons, and in the last year the imports of broken rice into this country have entirely ceased. There is, therefore, no doubt that the duty has been entirely effective, and there is obviously no case for raising the duty. It might indeed be argued that the duty is too high.

The duty has also had a good deal of effect in keeping out whole rice and paddy, and during the time that the duty has been in operation the foreign imports of both paddy and other forms of rice have grown less and less, until in the last year the imports of foreign paddy were negligible, and the imports of rice were very small indeed. At the same time, the prices of rice in the Madras Presidency have for the most part been rather higher than they were last year, though just at present they are a little lower than they were at this time last year. Most of the rice which comes into India, other than Burma rice, comes from Siam and Indo-China. This year the crop from Siam is about 39 per cent. higher than the crop of last year, but if you take the last five years together the crop is an average crop. In Cochin China, the crop this year is about 16 per cent. higher than the average but is 13 per cent. below last year. The Burma rice crop is about the same as it was last year and the Indian crop excluding Burma is about 5 per cent. below last year. The cumulative effect of all these variations is not very great, but, judging from the recent recession of prices in Madras, there is likely to be a certain amount of pressure on the

Indian market. That fact is really the only justification at all that we have for bringing forward this Bill to continue the duty.

In conclusion I may remind the House that, if this duty is in operation, it will be possible for Government to take further action during the year, should it be necessary, under section 4 of the Indian Tariff Act. If the pressure on the market should increase very considerably, it would be possible for Government, if they considered it necessary to do so, to raise the duty without further reference, Sir, to this House. The indications at present are, however, that the duty which we are proposing to continue is likely to be all that is required.

With these words, Sir, I commend the Bill to the House.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : Sir, coming from Madras we really welcome this measure. You may remember, Sir, some years ago we had to fight for this duty. After the imposition of this duty, as the Honourable Mr. Dow has said, the Madras Presidency has felt a considerable relief and we do think, Sir, that the extension of this tariff for another year would certainly benefit the Presidency. So far as the crop is concerned, no doubt in one or two districts there has been failure of crop, but on the whole the circumstances in Madras are not very bad and I do hope that this Bill will give the necessary relief.

THE HONOURABLE THE PRESIDENT : Motion moved :

"That the Bill further to amend the Indian Tariff Act, 1934, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. H. DOW : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

TRADE DISPUTES (AMENDMENT) BILL.

THE HONOURABLE MR. A. G. CLOW (Labour Secretary) : Sir, I move :

That the further amendment made by the Legislative Assembly in the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, be taken into consideration."

This amendment consists merely of the addition of the words "in writing" which Honourable Members will find in sub-section (4) of the proposed section 18A in clause 10 of the Bill. The amendment has the advantage of preventing a possible occasion for dispute.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : The Question is that the Council do agree to the following amendment :

"That in clause 10, in sub-section (4) of the proposed section 18A, after the word "requests" occurring in the third line the words 'in writing' be inserted."

The Motion was adopted.

DELHI JOINT WATER BOARD (AMENDMENT) BILL.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I move :

“ That the Bill further to amend the Delhi Joint Water Board Act, 1926, as passed by the Legislative Assembly, be taken into consideration.”

I do not think that many introductory remarks are required for asking the House to consider this Bill. The reasons are explained fully in the Statement of Objects and Reasons. The origin of the Bill is based on the recommendations of the Delhi Sewage Committee which was appointed in 1936. At that time, while there was a Joint Water Board which dealt with the filtered water supply of the Delhi urban area, which as Honourable Members know is composed of three parts, New Delhi, Old Delhi, and the Notified Area, the sewage was disposed of by Government and this Committee recommended—and it was an obvious recommendation—that, as the water supply and the sewage were so closely connected, the same Board should deal with both the water supply and the sewage ; and it is to carry out that recommendation that this Bill has been introduced. I do not think that I need say anything more about the necessity for this Bill nor in regard to the clauses which are more or less of a formal or consequential nature. I therefore commend the Bill for the consideration of the House.

The Motion was adopted.

Clauses 2 to 16 were added to the Bill.

Clauses 17 and 18 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I move :

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

The Motion was adopted.

CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muham-
madan) : Sir, I move :

“ That the Bill further to amend the Child Marriage Restraint Act, 1929, as passed by the Legislative Assembly, be taken into consideration.”

Sir, the task of piloting the original Bill, as passed by the Legislative Assembly, was entrusted to me in the year 1929. Mr. Sarda asked me to pilot his Bill in this House and I had the honour of doing so, and I made my Motion on the 27th September, 1929 in this House. At that time, there was a substantial amount of opposition to the Bill though we had a very comfortable majority in passing it as the Government gave their support to the measure. I hope that the educative value of the Act in these eight or nine years has been sufficiently brought home to the minds of Members of the House and that the

opposition, if there is to be any, will be very, very feeble now. The main provisions of this Bill are these. The jurisdiction to entertain complaints is now extended to Magistrates of the first class also, while the original Bill confined it to Presidency Magistrates and District Magistrates. It is but right that after the Act has been in force for about eight or nine years, jurisdiction should be extended, so that First Class Magistrates may take cognizance of the offence.

The other amendments are mainly three. Hitherto, a complaint had to be formally made and in every case the Magistrate, before he allowed the complainant to proceed with the case, was required to take security from him in order to compensate the accused if the complaint was ultimately proved to be frivolous. That provision greatly curtailed the utility of the Act because very few people were willing to come forward with complaints and to furnish security to the Magistrate before the case was proceeded with. It was a great hardship to the complainants. Now, this amending Bill, partially retaining the old safeguard, enables the Magistrate in some cases to ask for security, if from the preliminary investigation he has made, he has reason to think that the complaint is frivolous. In the majority of cases he is not required to insist upon the complainant furnishing security before the case is proceeded with. I think that this is a very mild amendment. Normally, cases will be proceeded with, but before the case is proceeded with the Magistrate has discretion to make some preliminary investigation and if he entertains any doubt about the *bona fides* of the complainant, this Bill still empowers him to require security from the complainant. Therefore, the amendment is not a drastic one.

Another amendment of importance is that while hitherto there is no specific provision for restraining a marriage by an injunction by the Magistrate before whom the case is filed, for the first time this Bill provides a procedure for stopping the marriage before it has actually taken place. It is one thing to punish the offender after the act has been committed, and another thing to prevent it. If there is any case in which the adage "Prevention is better than cure" is applicable, it is the case of a child marriage. I think this is a very wise provision which will considerably help the objects of the Act being carried out.

In regard to the issue of injunction, the clause is very, very conservative. There is no power in the courts, according to this Bill, to issue an injunction without previous notice to the party concerned. An *ex parte* injunction cannot be given. When an act complained of is to be performed almost immediately, in other cases, the civil courts are empowered to issue injunctions *ex parte* and to fix a very early date for hearing the application. But, in this case, there is a definite restraint upon the Criminal Court from issuing an injunction without issuing previous notice to the person affected by the injunction. I wish personally that sub-clause (2) of clause 6 had not been put in. However, it is there, and I am to pilot the Bill in the form in which the Assembly has passed it. However, it is a great improvement upon the existing law,

The only other amendment of importance is that which provides for a higher punishment when the marriage is performed in violation of an injunction. The normal penalty for an offender who performs a marriage in violation of the provisions of the Act is one month, simple imprisonment, or Rs. 1,000 fine, or both under the old Act. Now, it is proposed to raise the period of imprisonment from one month to three months, and also to make the imprisonment one of either description—not necessarily simple, but it may be either rigorous or simple. The fine is left as it is. The provision about enhanced

[Mr. Ramadas Pantulu.]

punishment is considered to be somewhat drastic ; but I submit that a person who performs a marriage in violation of an injunction given by the court and also knowing that an injunction has been issued certainly deserves a more serious punishment and therefore it is justifiable on every principle of enlightened criminal jurisprudence.

These are the only changes made. But these changes will have a very far-reaching effect in making the original Sarda Act an effective measure in preventing child marriages. Sir, on this occasion, it is not necessary for me to go into the merits of the original Act. The amendments are not so drastic as to make any radical changes in the original Act. These amendments are intended only to make the original Act effective. Sir, on the former occasion, when the Bill was piloted by me in 1929, the Leader of the Opposition, my Honourable friend Rai Bahadur Lala Ram Saran Das, gave his valuable support to us. He defended it and he himself said that he performed the marriages of his daughters only after they had attained 14, with the full concurrence and on the advice of the Pandits. He said that the Pandits had told him that there was nothing in the Shastras to require a girl to be married before she was 14, and it was not until he had fully satisfied himself that the Shastraic injunctions were not being violated that he embarked upon the social reform of marrying his daughters after they were 14. When another Bill to amend the Act, to prevent people from evading the Act by performing the marriage in Indian States or non-British territories recently came up before this House he supported the view which he advocated in 1929 by further recitations from the Shastras and the Vedas. I think that with the powerful support of the Leader of the Opposition, this Bill will have an easy passage now. On the last occasion we had a few Bajorias and Ghuznavis in this House, and my friend Mr. Khaparde from Berar and my friend Nawab Lt.-Col. Akbar Khan from the North-West Frontier Province put up a very gallant and strenuous fight. Neither of them is in the House today. I hope that the present Members will not take up the attitude taken by these two Members. I only wish to make one appeal to my Mussulman friends here. I assure them that this measure is one of national importance. From this side of the House, especially from my friend Mr. Hossain Imam, many appeals have been made to the Government in favour of Indianising the army, and the other day we had an appeal for the constitution of a national army in this country. I submit, Sir, that a national army cannot be constituted so long as we have child wives, infant mothers and a deteriorated nation. (*An Honourable Member* : " You want nationalisation of marriages ? ") Yes, I do wish to rationalise them. Sir, you cannot have a strong nation and you cannot preserve the manhood of the nation so long as this corroding social evil of child marriage persists. The Age of Consent Committee presided over by Sir Moripant Joshi collected evidence from all quarters in this country and enlightened public opinion had fully supported the raising of the marriageable age of the girls. It was raised to 14 and we are not proposing to raise it further. We only want to make that Act of 1929 effective ; and those who voted for the original Bill and those who have allowed the Act to be in operation for all these years should certainly not oppose it now when it is sought to be made real and effective in operation. Without trying to go further into the merits of this original Act, I appeal to all the Members of this House to support this Motion of mine.

I might also say that on the last occasion when we discussed the principles of the Sarda Bill Sir Fazl-i-Husain who was a Member of this House at that time gave us very valuable support. He quoted from the Shariat, the

Muhammadan Law and the Muhammadan scriptures, to show that there was nothing in the Muhammadan Law to compel Muslims to marry their daughters at a particular age. We were greatly indebted to him. And you, Sir, took a very prominent part in that debate in 1929, and I think you argued with great ability against the contentions of those who considered that certain innovations were being made in the personal law of some communities in this country. By your arguments you have shown that no such interference was involved in the Sarda Act and I have read with great interest this morning your speech on that occasion. Many of the present leading Members of the House I think were Members of the Council at that time also; so without taking up more of the time of this House I would request Members here to give it whole-hearted support and put this Bill on the Statute-book. Some papers have already congratulated the Assembly on placing the Bill on the Statute-book. But that has not yet been done. It is for us to place it on the Statute-book because the Assembly cannot place anything on the Statute-book until it is passed by the Council also. Therefore the credit of placing this Bill on the Statute-book lies with the Council. I therefore appeal to you in the interests of the nation to remove this corroding evil of child marriage and help us in building up a real Indian nation.

With these words I commend this Motion to the acceptance of this House.

(The Honourable Mr. Mahtha and the Honourable Haji Syed Muhammad Husain stood up together and the Honourable the President called the Honourable Mr. Mahtha.)

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Sir, with your permission I want to make a statement as to the attitude of the Mussulmans in connection with this Bill.

THE HONOURABLE THE PRESIDENT: I presume you want to make a speech on the Bill?

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: No, I do not want to make a speech.

THE HONOURABLE THE PRESIDENT: But it is tantamount to that. If you make a statement that is a speech. The Honourable Mr. Mahtha.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA (Bihar: Non-Muhammadan): I rise to give my whole-hearted support to the Bill that is before the House. The provisions of the Bill are very wholesome indeed and have been fully explained in the Statement of Objects and Reasons. Their legal import and extent has also been explained very ably by the Mover. Perhaps the only criticism that can be levelled against the Bill is that it comes a little late. The Sarda Act, which was hailed by all progressive elements in this country, had remained a dead letter to a very large extent so far and experience showed that it was possible very easily to frustrate the intention of the framers of that Act and to circumvent its provisions. At any rate there was hardly anything in the Act which was able to prevent the mischief from happening. This Bill we all know will have the effect of preventing the mischief before it happens, on account of the provisions in this Bill with regard to the issuing of injunctions, etc. Some opposition was offered to this Bill in the other House on behalf of the orthodox Hindu section. But, it was also conclusively shown there that the opinions expressed were not representative of that community or at least that section of the community.

[Rai Bahadur Sri Narain Mahtha.]

Another criticism that I have heard here and there against this Bill is that this Bill is a very drastic personal measure. But, we cannot afford to forget that the extent to which the evil of child marriage obtains in this country is also extraordinary and can hardly find a parallel anywhere else. Very necessarily, therefore, deadly maladies do require drastic remedies; and I hope that this Bill when it becomes an Act will have the effect of making the Sarda Act a really live measure which will enable it to achieve the purpose of the framers of that measure.

Sir, I would just like to conclude by offering my thanks to Mr. B. Das who fathered this measure in the other House and I hope his effort will bear fruit and the evil of child marriage in this country will be wiped out completely or at least to a large and substantial extent.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Sir, so far as the principle of this Bill is concerned the Mussulmans are in complete sympathy with the principles and the abolition of early marriages. But at the same time they have certain difficulties as to the application of the Act to the Mussulmans, and therefore their attitude is that they do not wish to oppose the passage of this Bill. They are considering to move an amendment, which they have not yet decided upon, and therefore they do not wish to participate.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Mr. President, I desire to congratulate the Honourable Mr. Ramadas Pantulu on the Bill which he has promoted in the Council. Congratulations, Sir, are also due to Mr. B. Das who fathered this Bill in the other House.

Sir, the Sarda Act was a useful piece of social legislation. It was preceded by a great controversy in the other House and in this House and in the country also. In actual working it has however not proved so effective and in spite of the Sarda Act child marriages still continue. If I have any criticism to offer against the present Bill it is that it does not go far enough. I should have gone further and declared all child marriages invalid. Religion or no religion, I look upon child marriage as suicide. I do not care to enquire what the Shastras have got to say about child marriage. I do not care to enquire whether there is any sanction in the Shastras for late marriages or whether there is any sanction in the Shastras for early marriages. Marriage for me is a personal matter, a purely personal matter. I do not think that religion has got anything to do with these personal matters at all. Religion determines one's attitude towards the universe; religion determines one's attitude towards his Maker. I do not think that the final word on human wisdom was uttered by our sages 4,000 years ago. We believe in a progressive revelation and we who live in a modern world and in a modern society look upon child marriages and all the social customs from which Hindu society suffers as abominations. We, Sir, aspire to be a modern India and we must therefore have in these matters a modern attitude. Therefore from my point of view the Bill which has been promoted is a very very modest Bill. I do not know whether this Bill will prove more effective than the Sarda Act; I hope it will. It certainly improves the Sarda Act in two or three respects. It empowers a magistrate to issue an injunction to prevent a marriage. I think this is a salutary provision. Once a marriage takes place among Hindus,

it is irrevocable. It cannot be dissolved. It cannot be declared invalid. So prevention is certainly better than punishment. You may punish a man by a fine of Rs. 50 or Rs. 60. He spends Rs. 5,000 for his daughter's marriage. So what does it matter if he has got to pay Rs. 50 by way of fine. You may punish a man by Rs. 50 or Rs. 60, if he marries his daughter at the age of five or six, but you do not prevent him from marrying his daughter at the age of five or six. You can only prevent him from marrying this girl at the age of five or six when you declare that such marriages shall be invalid. The answer of our orthodox friends to this line of argument is that Hindu society is not prepared for that step. Hindu society will never be prepared for that step. It is for us to make it prepared for that step. I have never heard of a reform promoted by any orthodox Church. Our orthodox friends now think that there ought to be some change. Girls ought not to be married at six or seven years. I suppose according to them 14 is quite good enough age for a girl to marry at. That is not our attitude. I do not think we want our girls to be married at the age of 10, 11, 12, 13, 14, 15, 16, 17, 18 or 19. We want girls to decide for themselves whether they shall marry or whether they shall not marry. We want to have a society in which it will be possible for men and women to determine their own lives for themselves. We do not want the old old Hindu social customs and the old old Hindu society to remain in its present form. Well, Sir, you will excuse a certain amount of frankness on my part. We all boast of our great spirituality, but I have often wondered whether we, Indians, are really a spiritual people. I should have thought that this boasted spirituality would find expression in definite ethical ideals and a definitely ethical life. You cannot have a definitely spiritual life in the abnormal atmosphere of an Indian home. Your children begin to think of sex when they are five, six or seven. That is really the result of this institution of child marriage. You force your children of six or seven years to think in terms of sex at a time when they ought to be playing about. These are the hard facts which you must face if you want to be progressive. We all desire freedom not in the political sphere; but we also want freedom in the economic sphere and we want freedom in the social sphere. Freedom in the social sphere and the economic sphere is just as important as freedom in the political sphere. If we get freedom without freedom to order our lives, that freedom means nothing; it is worth nothing. Therefore I look upon this question of child marriage as a very vital question. Child marriages sap the vitality of our race; they are adding to the complexity of our economic problem. Our young men find themselves in a helpless position today. They have got very great responsibilities which young men of other countries have not. They are fathers before they are 18, 19 or 20. If I am a father at the age of 20 with two children, then I lose certainly the spirit of adventure, I lose initiative; I lose independence. I begin to think of my wife, I begin to think of my two children, I begin to think of my family responsibility and all that. The initiative, independence and the spirit of enterprise which characterise other communities do not characterise our community because of these social customs.

Sir, before I conclude, I should also like to pay a tribute to an English lady who has taken a very great deal of interest in the question of child marriages, Miss Eleanor Rathbone. You will remember, Sir, that there was a book published some years ago called *Mother India*. That was a scandalous publication. It gave an entirely untrue picture of India, but that book did one good thing. It roused fierce controversies and made the Hindus realise how the Hindu could be looked at by the other communities of the world.

THE HONOURABLE THE PRESIDENT: Is it necessary to revive old sores ?

THE HONOURABLE MR. P. N. SAPRU: Sir, sometimes it is necessary. Ever since the publication of that book, Miss Rathbone has taken a great deal of interest in the question of child marriages in India. I think her services might be recognised by a word of praise for her in this Council.

Sir, with these words, I support the Bill.

THE HONOURABLE SIR A. P. PATRO (Madras : Nominated Non-Official) : Sir, I am one of those who do not believe that reform could be effected solely by legislative enactments of this kind. The history of social legislation throughout these 30 or 40 years shows that they have been only enabling enactments which never had gone far enough in order to reform social conditions and improve the mental and moral condition of society. I would refer in passing to an Act—the Widow Remarriage Act. It was passed at that time after a great struggle. Reformers on all sides ranged together and yet the Act was passed and you know the result. Then we passed the Child Marriage Restraint Act and we know the result. Unless you make public opinion and the legislation sufficiently drastic imposing on society a moral and a legal obligation, no reform could be effected in practice. In this measure there are very halting provisions which in my opinion will again require drastic amendment. This measure says (section 12) an injunction could be issued by the court and disobedience to an injunction is met with the penalty of either three months imprisonment or a fine of a thousand rupees. But you know, Sir, in the country the *kanyasulkam* and *varasulkam* are prevailing to such a large extent that the parties do not care if they have to pay a thousand rupees but they want to carry out what they wanted. Therefore, how far does this penal provision help society in order to improve the present state of things ? I am one who advocates wholesale reform, namely, put down that all child marriages are illegal. Unless and until you make a definite statement like that in legislation you will not have any reform carried through, however much we may wish for it.

THE HONOURABLE THE PRESIDENT: Would you not be punishing innocent children for the sins of their parents ?

THE HONOURABLE SIR A. P. PATRO: Innocent children must be sacrificed for the sake of the national cause. It is no use saying the national cause requires that they should be saved. Sir, in the past, child marriages have produced men and women of great name and fame in our country. The community in which this child marriage prevails largely has produced very intellectual and very highly political people. I need not say who they are. But still, to say that nationalism will suffer is not a defence. It will suffer if you do not make it more drastic than it is. I therefore subscribe to the statement that has been made outside this House that this measure does not go far enough to improve the present condition of society and it is necessary that an injunction should be made against every child marriage. And this measure again provides (the third reform in the Statement of Objects and Reasons) :

“Thirdly, by enabling the Court to require the husband of a child wife (or if he is a minor, his guardian) to make provision for the separate custody and maintenance of the child wife and to refrain from consummating the marriage until she reaches the legal age for marriage, or until a later date if it thinks necessary.”

What is this penalty? When the parties agree that such an illegal or unlawful act is to be carried out, they agree among themselves as to how the provision is to be got over.

THE HONOURABLE MR. RAMADAS PANTULU: That portion is not in the Bill. It has not been passed.

THE HONOURABLE SIR A. P. PATRO: I know it is not in the Bill. I am saying that if even this provision could be put into the Bill it would be an effective check on child marriage, but the omission of even this object which was originally intended by the Mover in the other House shows that this Bill is only half-hearted; it does not go far enough in order to reform the conditions which are existing in our country. The only effect of this is that the courts could now under this law issue an injunction to prevent a marriage. Now, how far does the injunction help to rectify the condition of things? Clause 5 of the proposed addition to section 12 of the Act says:

“Whoever knowing that an injunction has been issued against him under sub-section (1) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both”.

But as we know, there are ways of evading a summons under the Civil Procedure Code, and summonses are easily evaded. Therefore, in the meanwhile the marriage will be effected, and what is the remedy for that? The whole question hinges on the words “whoever knowing”. And knowledge of the injunction being essential, for the purpose of being dealt with under this section, where is this knowledge to come from? He absents himself and goes out to another place, and in the meanwhile the summons is issued. What is to be the result? Therefore, the sub-section is not at all effective in preventing such marriages. It is all right for persons whose communities do allow post-puberty marriages to advocate and talk glibly but it is for those persons among whom this evil of child marriage prevails we must get at, they are the persons among whom opinion should be created in this matter. And this Bill, Sir, does not go far enough to improve the present condition of things. But though it is only a one-tenth measure, even a small relief given and a little light shining on the dark horizon by which we are surrounded, I do not oppose the Bill. But what I do say is this, the Bill is ineffectual in carrying out the work of this reform as the history of social legislation in the past has shown that half measures and optional measures have never been successful in India. There is opposition even to this small Bill. There was opposition when the Sati Act was enacted enforcing the prohibition of sati, the cruel practice sanctioned by the Shastras and sanctioned by the Smritis, quoted by all pandits. The Shastras sanctioned such a cruel practice, burning widows alive, and yet opposition there will be for any reform that is made in our society, but unless that reform is drastic enough to go to the root of the evil and remove it completely, then it will spring up in some form or other; the minds of this class of people will discover some way of working round the Act. Therefore, unless you lay the axe at the very root, this measure will not be a success. And yet, as I said, this small relief, this little light in the darkness, is welcome in preference to remaining in darkness.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, with your permission, I think it desirable to announce to the House the attitude of Government in regard to this Bill.

[Sir Jagdish Prasad.]

I see from the speech of my Honourable friend Sir A. P. Patro that he thinks that the Bill does not go far enough. But, as he has not given any notice of any amendment, I am entitled to conclude that perhaps these views have been formed since he arrived in this House because if he really felt so genuinely and seriously that the Bill did not go far enough, one would have expected him to have given notice of such an amendment.

Of course, in a measure of this kind there are bound to be varying opinions ; one side insisting that the Bill does not go far enough, another urging that it is going too far. And this phenomenon has been repeated in regard to this very Bill. We have had complaints that this Bill has gone much too far. We have also had complaints that it does not go far enough. But I should like to remind Honourable Members that we are not discussing today the question of child marriage. The Sarda Act is already on the Statute-book. What we are discussing is certain provisions to make that Act effective in certain respects, and my Honourable friend Mr. Ramadas Pantulu has shown that the provisions of the Bill are adequate for that purpose. We are not discussing the principles of the Sarda Act. We have found certain deficiencies in the working of that Act and to meet those defects this Bill has been introduced. Therefore, Honourable Members should really confine themselves to the provisions of this Bill, accepting the proposition that the Sarda Act is already on the Statute-book. My Honourable friend Mr. Pantulu has shown that the provisions of this Bill are not revolutionary, that they are an attempt to close up the holes that we have found in the Sarda Act. The Bill has been very fully discussed in the Lower House. It has been to a Select Committee,

12 NOON.

but before it went to a Select Committee, opinions were invited from Local Governments and from communities and bodies interested in the measure, and I gather from the opinions received that a large majority of the communities affected by this Bill and a large majority of Local Governments have accepted the provisions of the Bill. Sir, this measure has been fully canvassed, opinions have been very fully considered, and after considering all the discussions that have taken place, the attitude of the Government is to support this measure.

THE HONOURABLE SIR A. P. PATRO : On a personal explanation, Sir, I think the Honourable Member who just now spoke is entirely mistaken, or I should say, has misunderstood my not giving notice of amendments. If he has been reading newspapers, he would be convinced that this attitude of mine is not taken for the first time but has been taken ever since the Bill was introduced—

THE HONOURABLE THE PRESIDENT : Order, order. That is not a personal explanation. You are making a second speech to the House.

THE HONOURABLE SIR A. P. PATRO : The explanation is that I did not give notice of amendments because for the first time I thought of opposing this Bill. That is the reflection made by a Member of the House. I want to say it is not so. In view of the attitude I have taken in regard to this Bill previously, that is not justifiable at all.

THE HONOURABLE THE PRESIDENT : That is all right.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : I merely wish to state that I had not had the honour of reading my Honourable friend's opinion in the newspapers. I accept his explanation.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras : Nominated Non-Official) : Sir, there can be no doubt that the Act, as now being amended, is a great improvement and provides a more efficient measure for preventing child marriages and punishing offenders. Tributes have been paid to the sponsor of this Bill in the other place and also to other parties. I think it is fair that we must recognise that but for the Government's cordial support, this Bill would not have had such an easy or smooth passage through the Legislature ; and I think our thanks are due to the Government for their very hearty support. I cannot help feeling, notwithstanding the Honourable the Leader's statement on the subject, that it is a matter for some regret that two important provisions of the Bill as originally introduced have had to be dropped. I refer to the provision allowing a Magistrate to take proceedings without a complaint being made and also to the provision enjoining that the minor wife shall live apart from the husband. Doubtless there are practical difficulties in carrying out these provisions and there is always the danger of the Act being exploited for purposes of blackmail or for wreaking private vengeance. But, on the other hand, if it is sought to remedy a social evil by means of legislation, it clearly follows that you must provide an Act adequate for the purpose. From this point of view, it must be admitted that the Act, even as amended, falls far short of actual requirements. That consideration naturally leads to the reflection whether after all we are not looking in the wrong direction in looking to the Legislature for supplying us with a weapon for eradicating a social evil. I think it will be best to frankly admit that no Act of the Legislature, however drastic it may be, can really eradicate a social evil. We must look for its final and complete eradication to public opinion. There is no doubt that public opinion has grown very considerably in regard to this particular matter and in regard to other social evils in recent years. But it has not yet reached a stage where it can dispense with the aid of the law. In these circumstances, the present measure, inadequate and incomplete though it is, will be widely welcomed by the public.

There are two or three directions in which the Government can really help the progress of the child marriage reform movement, and I should like to mention these very briefly. I think, in the first place, the Government should try its best to tighten up the administration of the law. There is a widespread impression that Government are either lukewarm or indifferent in this matter. There may have been some excuse for an attitude of leniency or laxity in the earlier years of the Act, because the Act was passed against some opposition. But sufficient time has now elapsed for the public to become familiar with the objects and the provisions of the Act, and sentiment and prejudice have had ample time for coming to a truce with reason. I consider, therefore, that there can be no longer any justification for the Government to continue in its present policy of inaction. Nothing is more likely to undermine the respect for law and the Government than to pass an Act after full deliberation and then to refuse or neglect to enforce it.

One of the difficulties in enforcing the Act is that when a child marriage has taken place a Magistrate cannot take action unless a complaint is laid before him. Obviously it is a very difficult and delicate matter for any respectable citizen to lodge a complaint in his private capacity in a matter of this kind. It seems to me that the best way of meeting this difficulty will be to form local Women's Vigilance Committees in places where child marriages are reputed to be of frequent occurrence. Complaints made by or on behalf of any such committee will be free from the suspicion of any ulterior motive. I therefore suggest that the Governments, both Central and Local, would be well advised in helping the establishment and maintenance of such committees

[Sir Ramunni Menon.]

by making suitable financial grants. Then there is another matter. I think it is a very wholesome rule, and it would be one worthy of adoption in all educational institutions, that students, as long as they are students, should be Brahmacharis, i.e., bachelors. If that rule is adopted, it would necessarily follow that Colleges and Universities should refuse to admit any boy who has contracted a child marriage. Such an attitude on the part of our educational institutions would certainly produce a very salutary effect on the rising generation, and I am sure it is a course of action which deserves favourable consideration at the hands of the authorities.

If the Government is prepared to further the cause of reform in all reasonable ways, I think action may well be taken along the two or three lines that I have indicated. Such action should receive full public support. In any case, for the satisfactory working of the amended Act, public co-operation and goodwill are absolutely essential. Let us all hope that these will be forthcoming in ample measure.

I heartily support the Motion made by the Honourable Mr. Ramadas Pantulu.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadian) : Mr. President, the passing of the Child Marriage Restraint Act, popularly known as the Sarda Act, in 1929 marked an important stage in the development of the social conscience of the Indian community. It was welcomed throughout the country as indicating the attitude of the educated classes towards a matter vitally concerning the future of our race. That Act from which much was hoped has unfortunately been found defective in practice. It was found to suffer from two serious limitations. One was that people wishing to violate the provisions of the Act could do so with impunity by crossing over the borders of British territory into an Indian State. As the Act applies only to British India it was impossible to bring such people under the penal provisions of the law on their return to British India.

The other serious defect that was discovered was that the courts were given no express power to prevent the violations of the Act. They could take cognizance of violations of the Act but it was thought that they did not possess sufficient power to prevent the mischief dealt with by it.

Now, the first defect was dealt with by a Bill introduced in the other House by Mr. Lalchand Navalrai. It has now been made clear that if British subjects commit an offence under the Sarda Act outside British India, they would come within the penal provisions of the law on their return to British territory. That was a very wholesome amendment. How it will work in practice we have to see, but it is a source of gratification to us all that an important step has been taken to enforce the observance of an important law.

The other defect has been dealt with by the Bill now under discussion, which was sponsored in the other House by my friend Mr. B. Das. This Bill puts it beyond question that courts have the power to take proceedings in their discretion against persons who are about to commit a breach of the law. Now in the Bill as amended in the Legislative Assembly it has been laid down that notice shall be given to the parties concerned to show cause why an injunction should not be issued restraining them from celebrating a marriage before action is taken against them. My Honourable friend Sir. A. P. Patro objected to this on the ground that advantage might be taken of it in order to perform a marriage secretly. This is certainly possible and this was brought to

the notice of the Honourable the Law Member in the other House. In referring to the subject he gave an assurance that if it was proved to the satisfaction of Government that advantage was taken of this provision in a large number of cases to celebrate illegal marriages, Government would be quite prepared to reconsider the matter. It must, Sir, be recognised that the grounds on which an *ex parte* injunction was objected to were cogent. Our feelings on one side of the question that we are discussing might be strong. Nevertheless as legislators we have to see that the procedure laid down by us is such as to do justice to all parties in all cases, particularly in those in which strong feelings might be roused. It is satisfactory therefore to note that the Law Member has given an assurance on behalf of Government that if the provision to which I have drawn attention is found to interfere with the proper observance of the Sarda Act Government would give such consideration to the matter as it deserved.

Another provision of the original Bill to which attention has been drawn relates to the separate custody of a minor wife in case a marriage contrary to the provisions of the Sarda Act has been celebrated. The matter was not free from difficulty. The Law Member, speaking in another place, pointed out the serious objections that could be urged against such a provision but at the same time it must be confessed that unless proper steps are taken in this matter there can be no assurance that the purpose of the Sarda Act will be achieved. I understand that there is a great deal of anxiety in the minds of those representing the womanhood of India owing to the deletion of this clause. I notice that no assurance has been given by Government that they would be prepared to take action in future in order to ensure that the rights of a minor wife under the law shall be fully respected. But I have no doubt that if it is found in practice that child wives are subjected to the inhuman treatment which the Age of Consent Act was meant to deal with, there will be such an upheaval of feeling in the community as to compel Government to take adequate action.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, there is no quorum in the House.

THE HONOURABLE THE PRESIDENT (to the Honourable Pandit Hirday Nath Kunzru): Will you proceed please?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Mr. President, before I sit down, I should like to say a word with regard to what fell from my Honourable friend Haji Syed Muhammad Husain. He said that while the Muslim community was in sympathy with the principle of the Bill, it felt some difficulty with regard to the administration of the Sarda Act. As he spoke very briefly on the subject, we are in the dark as regards the practical difficulties which the Muslim community complain of. But should any Honourable Member here be under the impression that the evil practice which the Sarda Act was meant to control—and indeed to eradicate—exists only in the Hindu community, he should read the Report of the Age of Consent Committee in order to disabuse his mind of this erroneous impression. The evil of child marriage, it seems, exists in all communities, not excluding the Muslim community. The illustrations which the Age of Consent Committee gave with regard to Eastern Bengal I think showed conclusively that the Muslims of Bengal were not one whit more advanced than the Hindus in regard to this matter. As we proceeded, Sir, in 1929 on humanitarian grounds, we felt ourselves bound to take action whether it was the Hindu or the Muslim community that was found violating the laws of health and the rights of minors.

[Pandit Hirday Nath Kunzru.]

Apart from this, my Honourable friend Mr. B. Das has been supported by influential Muslims. I gather from the opinions received by Government that a number of prominent Mussalmans supported the principle of the Bill. The Chief Justice of the United Provinces was one of them and as the opinion to which I am referring was expressed in 1936 I take it that the Chief Justice referred to was no less a personage than Sir Shah Muhammad Sulaiman. I also find from these opinions that the principle of the Bill has been supported by Mr. Justice Nur who belongs to the province from which my Honourable friend Mr. Hossain Imam comes. The Punjab, Sir, is another important province from the Muslim point of view, and there I find that Justices Aga Haidar, Abdur Rashid and Din Muhammad have all whole-heartedly supported the principle of Mr. B. Das's Bill. It is therefore too late in the day for any Muslim to contend that Mr. Das's Bill is contrary to Muslim religion or is not needed for the welfare of the Muslim community. In addition to this, Sir, I find from the proceedings of the Legislative Assembly that Muslim women who are more concerned with the Das Bill than men have generally supported the Bill at any rate in this province. I gather from the speech of Mr. B. Das in moving for the reference of his Bill to a Select Committee that in a memorial received from Moradabad it was found that it had been signed by 28 Muslim women. Women, Muslim women, have given their support to this measure I understand in Bengal also. It is apparent from this that Muslim women and leading members of the Muslim community, that is those whose business it is to expound and administer the law, take a very different view of the measure before us from that of my Honourable friend Haji Syed Muhammad Husain and those whom he represented.

THE HONOURABLE MR. HOSSAIN IMAM: No, he did not.

AN HONOURABLE MEMBER: Mr. Jinnah supported the Sarda Act.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: It does not matter to me, Sir, what happened in the year 1929, though the Law Member pointed out that Mr. Jinnah had supported the Sarda Act. We have advanced a great deal since then. Many of the opponents of the Sarda Act—and they were to be found in every community—are happily now amongst its warmest supporters. If therefore those members of the Muslim community who originally opposed the Sarda Act have now blessed Mr. B. Das's Bill, it only shows that they kept their minds open and that they have been convinced by the verdict of experience.

Sir, no one will say that the Bill before us achieves all that we have in view. The sponsor of the Bill is, I am sure, as dissatisfied with it as any other reformer. But he has to take those practical considerations into account to which the Honourable the Leader of the House and Sir A. P. Patro referred in their speeches. We are legislating not for all time but for the present situation. Apart from this, we have to bear in mind that Mr. Das could get his Bill passed only with the support of Government and in order to get it he had to enter into a compromise, which, left to himself, he might not wholly have approved of. Yet, on the whole, Sir, I welcome the measure before us. It marks another important stage in the social development of our community. I hope that such measures which might be a little in advance of public opinion will be brought forward more frequently and that the law, aided by a well organised public opinion, will soon bring about a state of things which will redound to the glory of our nation. It has been pointed out by more than

one Member that the achievement of the purpose that we have in view depends more on the organisation of public opinion than on legislation. I am in whole-hearted agreement with this observation. I think therefore that it is the duty of all social reformers to take steps to rouse public opinion and to create an atmosphere in which a violation of the Act would be frowned upon. A special duty rests on the women of India in this connection. The matter concerns them in a special degree and their views will be received with a respect which the views of men cannot be entitled to. I trust, therefore, that the associations that represent women will, as soon as this Bill is passed, take steps to carry on an active propaganda in favour of the Sarda Act and to help in the enforcement of its provisions. Government have given us the support that I think might fairly have been expected of them in the present circumstances. It rests upon us now to fulfil our part of the contract implied in the passing of the Act with their help. It is we who are on our trial now and I hope that we shall show by our conduct that the Bill before us is a genuine expression of the mind of the Indian community.

Sir, with these words I give my whole-hearted support to the measure before us.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, after the statement made by my Honourable colleague Haji Syed Muhammad Husain, it was not necessary that I too should speak, but the observations of Pandit Kunzru have forced me to my feet. The statement which Haji Syed Muhammad Husain made was that as Muslim opinion was originally opposed to the Sarda Act, and Mussalmans have not yet decided whether they should continue their opposition to the Sarda Act or give it up we will not participate in this discussion. If they decide that they should continue their opposition to the Sarda Act, it would naturally mean that any further step taken in pursuance of the Act should be opposed.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : Let them decide next century !

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal : Non-Muhammadan) : Did the leader of the Muslim League oppose the Sarda Act ?

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, everyone lives to learn. It is only those living in a fool's paradise who think they have nothing to learn. One may make a mistake and yet repent and reform himself. Or one may be right and continue to be right. That great leader, Mahatma Gandhi, has never been afraid of admitting his mistakes.

THE HONOURABLE MR. RAMADAS PANTULU : You never do it!

THE HONOURABLE MR. HOSSAIN IMAM : It is only a small mind that wants to go on and has not the courage to change. Mr. President, as I was explaining, the Muslims are placed in this predicament that there has been no fresh national decision on the subject. We decided, as was stated formerly when Mr. Lalchand Navalhai's Bill was before the House, that we should be quiet. I am still going to follow that mandate.

THE HONOURABLE SIR DAVID DEVADOSS : After speaking for a few minutes !

THE HONOURABLE MR. HOSSAIN IMAM : I am not going to give an opinion one way or the other. But I shall just deal with this Bill from two aspects, firstly, the constitutional lessons that we minorities derive from this Bill, and the attitude of the Congress and the Government on the measure ; and, secondly, the effectiveness of this Act.

The first point to which Pandit Kunzru referred was that the statistics of Eastern Bengal show that marriages among Mussulmans are as common as they are among our Hindu brethren. I have no quarrel with him on this issue. That is a fact. But he has forgotten one very essential feature of our Indian life, that a marriage in India is not the same thing as a marriage in Europe. In Europe marriage means that the husband and wife start living together ; and in India, as he well knows, marriage is a sort of sacrament.

THE HONOURABLE MR. RAMADAS PANTULU : Is it a sacrament or a sacrifice ?

THE HONOURABLE MR. HOSSAIN IMAM : A sacrament and a sacrifice are one and the same thing to some people. I am not speaking now about the religious aspect. I mean the going of the wife to the husband. For that there is no record. I hope, Sir, that the Government will take steps when the next census is taken to have statistics compiled and give us the true figures. Till then——

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Till then accept the present figures.

THE HONOURABLE SIR DAVID DEVADOSS : Who is to pay the piper ?

THE HONOURABLE MR. HOSSAIN IMAM : For Rs. 50 crores of the Army cost who pays the piper ? Whose sanction is there ? And you cannot give Rs. 5 lakhs in five years ? Sir, the erroneous statistics have clouded the issue. We have yet to find out the ages at which consummation of marriage in India takes place.

THE HONOURABLE SIR DAVID DEVADOSS : On a point of order, Sir. How is all this relevant to the present question.

THE HONOURABLE THE PRESIDENT : I do not think all this is relevant to the Bill itself.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, the argument advanced was that this evil prevails among the Mussalmans. I say it does not prevail either among the Mussalmans or the Hindus because he is taking the wrong figures. Well, Sir, as I said before, we are not going to make any statements. The Honourable Pandit referred, Sir, to the fact that certain eminent Judges of the High Court——

THE HONOURABLE SIR DAVID DEVADOSS : Why should we drag in any particular names ?

THE HONOURABLE MR. HOSSAIN IMAM : Pandit Kunzru referred to them. Sir, like a clever advocate, he only cited those who held the same ideas but did not refer to those who opposed the Bill.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are there any such of comparable importance ?

THE HONOURABLE MR. HOSSAIN IMAM : Justice Niamatulla.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I should like to know what Justice Niamatulla has done.

THE HONOURABLE MR. HOSSAIN IMAM : You cited the names of certain persons who were in favour of this. I am giving you the names of certain persons who are opposed to it.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : But from where does the Honourable Member get the information that Justice Niamatulla is opposed to the Bill ?

THE HONOURABLE MR. HOSSAIN IMAM : I said he was not in favour of the measure.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Well, I do not find that, Sir, in the papers before us. All that I wish to assure you, Sir, is that I have not wilfully omitted the name of any important Mussalman who is not in favour of the Bill. But I had to leave out the names of many who were in favour of the Bill, and I was therefore not bound to go on mentioning the names of those who were not in favour of the Bill. They are well represented in this House.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I differ from my Honourable friend and aver that the real criterion in deciding this issue should be the opinion of the representatives in the House. It is only Britishers whom it suited to call us the elected Members as unrepresentative and it ill suits Indians to side with the Britishers and call the representatives unrepresentative.

THE HONOURABLE THE PRESIDENT : We are not concerned with the principles involved in the Bill. At this stage this Bill only tries to make more effective a Bill which has already become law and therefore any reference to its principles is wholly irrelevant.

THE HONOURABLE MR. HOSSAIN IMAM : No, Sir, I am not referring to past principle. I am saying how it should be decided whether a measure is acceptable to a people or not.

THE HONOURABLE THE PRESIDENT : It is for Members to decide. You need not teach them what they ought to do.

THE HONOURABLE MR. HOSSAIN IMAM : I am saying that a measure which affects a community and is opposed by an overwhelming number of members of that community, should not be applied to that community if that measure falls under the head of social reform or under any matter pertaining to things which do not fall under the head of State control.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : That principle has not and cannot always be accepted.

THE HONOURABLE MR. HOSSAIN IMAM : Then, the whole question of safeguarding of minority interests, their culture, their education and their

[Mr. Hossain Imam.]

language, falls to the ground if this tyranny of the majority is allowed to prevail. A community which is in a minority can only be safeguarded if it has the assurance that it will have internal autonomy and that in the case of any measures which do not affect the State, the opinion of the majority of the members of that community will guide the Government. Unless we get some sort of assurance like this, it will be our bounden duty to insist on statutory safeguards. You may think that your language is safeguarded, but the next day, a standing majority in this House may say that Urdu shall not be allowed to be taught in any school. What is there to prevent the majority rule prevailing? The Government and the Congress have given us this feeling, that in spite of the opposition of the majority of Mussalman Members the original Bill had been passed. I am not questioning their attitude at the present moment, but we shall be guided in our future attitude after we find how the Government behave when a measure for exemption of the Mussalmans is ever brought forward.

There is one question on which I should like to join issue, namely, whether vindictiveness should be the guiding principle in criminal jurisprudence. I should like to know whether the quantum of imprisonment or the fine has any deterrent effect on all the culprits?

THE HONOURABLE THE PRESIDENT: There is no vindictiveness in enforcing a penalty.

THE HONOURABLE MR. HOSSAIN IMAM: After the sermons that we have had recently raising suffering to great heights, and going to prison being regarded as an honour it is quite possible that people will not be deterred even by imprisonment. The real sphere of work is education and legislation comes in as a bad second to help. It is not by the rule of the rod and by legislation that we should try to force our own people to reform but it is by persuasion, by making them understand the evils, that we should proceed. There can be no two opinions on the evils of consummation of child marriage. It is an evil. Our difference is only about the method to be adopted in that connection—whether it should be the method of persuasion or the method of enforcement. I for one would have preferred education to deterrent imprisonment for, if we can educate our people, it will not be necessary to enforce the law, and the evil will be eradicated.

Sir, I would just like to say one word with regard to reference of this Bill to a Select Committee in the Legislative Assembly. We find that out of the 15 members who composed the Select Committee, there were three Mussalim Members—

THE HONOURABLE THE PRESIDENT: Order, order. The proceedings of a Select Committee are always confidential.

THE HONOURABLE MR. HOSSAIN IMAM: It is not the proceedings of the Select Committee to which I am referring. I am referring to its composition. The Select Committee was composed of 15 members out of which three were Mussalmans. But all these three Mussalmans happened to be those who had been returned on the joint electorates and they are the only three Mussalmans elected on the joint electorate in that House. There are 30 Mussalman Members in the Assembly elected on separate electorates, but not one of them was thought suitable to be included in the Select Committee.

THE HONOURABLE THE PRESIDENT: This has no bearing whatsoever on the Bill. These are things which may be very useful elsewhere but not in this House.

THE HONOURABLE MR. HOSSAIN IMAM: What I wish to impress is that true Mussalman opinion was not at all represented in the Select Committee. Mr. Abdul Quaiyum, a member of that Committee, though belonging to the Congress Party, yet in his Minute of Dissent he has given sound advice in a special note on the subject as to what should have been done in this connection. I would not refer to that in detail. I would refer Honourable Members to the report. I would simply say that this attitude of the Government and the Congress gives an object lesson to us, Mussalmans, as to how our rights can be trodden upon if it suits the majority and the Government to do so.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan): Sir, I had no mind to speak on this Motion, but the remarks made by certain Members have forced me to stand and make some comments. I am one of those who do possess and follow a religion and for those who follow any religion, the religious commandments for them are sacred and solemn. My Honourable friend Mr. Ramadas Pantulu referred to the remarks that I made on the original Bill when it came to this House in 1929. I supported that Bill then in my personal capacity and not as President of the orthodox Hindu Central Institution of the Punjab. Even in Holy Koran, no age limit has been fixed for the marriage of Muslim girls. Sir, it is a matter of pride to me that so far as my province of the Punjab is concerned, we have practically given up child marriage. Whether parents be Hindus or Muhammadans, marriages are not being observed at an early age. I might, for the information of my Mussalman friends, say that the late lamented Mian Sir Fazl-i-Husain married his daughters when they were of a ripe age. Even our own Hindu orthodox leader, the late lamented Pandit Din Dayal, also married his girls when they were over 18 years of age. Sir, Government in this case is not to blame because they have followed the majority of the opinions that have been received on this measure. Therefore, to bring in commonsense into the measure is the opinion of only a few in this House, because most of the Members follow a particular religion, and in those religions child marriage is disallowed. As far as the Hindus were concerned there was controversy on the subject and previously I have quoted authorities from the Shastras which do support the claim that adult marriage is not an offence. However, there is a difference of opinion and as far as my province is concerned that difference is now reduced to a minimum. The majority of the people follow the command of the Shastras and discourage child marriage.

My Honourable friend Mr. Hossain Imam has observed that the majority must not have their way. Perhaps my Honourable friend has forgotten that recently in the North-West Frontier Province the majority community there disallowed the use of Gurmukhi in the schools. There was a lot of controversy on the subject; there were heated discussions in the local Council and outside. Of course, since the Congress Government have come into power there the grouse of the Hindus and Sikhs has been redressed and justice done, as far as my information goes.

Sir, I welcome this measure because those who supported the Sarda Act are of opinion that that Act must be upheld and any flaws which experience has shown to exist in that legislation must be removed. Therefore, I support the Bill, and I also hope that my Muslim friends here will also support the

[Lala Ram Saran Das.]

measure. Although during the speech of my Honourable friend Mr. Hossain Imam, I put him a question whether there was any authority in the Koran against child marriage or for the child marriage and, if so, whether he would quote it, I am sorry to say that my friend failed to quote it.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : No such authority can be quoted from the Koran.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : That is my impression. I have gone through the Koran myself a number of times and I have found nothing against the measure which is now before us.

With these words, Sir, I personally give my support to this Bill, and I hope all those in opposition will reconsider their position.

THE HONOURABLE MR. RAMADAS PANTULU : Sir, after the handsome measure of support I received from all sections of the House I do not think any elaborate reply is called for. My friend Sir A. P. Patro as usual, and it is a practice with him to put forward extreme views and vote against even moderate Resolutions and Motions, has put forward some views practically in opposition to my Motion.

THE HONOURABLE SIR A. P. PATRO : Extremism is a monopoly of one particular class!

THE HONOURABLE MR. RAMADAS PANTULU : I always derive much comfort in thinking that what I say must be right when it is opposed by Sir A. P. Patro! I am never on surer ground than when I am opposed by him, because I always feel he will side with the wrong cause!

Sir, with regard to one important question raised by him, namely, that social legislation should be of a drastic nature and half-way measures will not have effect, I would like to say a few words. This question of the nature of social legislation is not a new one. We are now dealing with a particular Bill, to make effective an Act already on the Statute-book, and whether we can now go back upon the scope of the original Act is involved in the questions raised by Sir A. P. Patro. But I would not detain this House on that issue for any length of time. I only want to quote one passage from a speech of Sir Malcolm Hailey on another social measure; he stated then in a few words the correct principles to be observed in matters of social legislation. He said:

"In fact I believe that all social legislation should proceed by gradual stages, providing social opinion with new standards and traditions at each step. If this is done, then when the Legislature makes each new step forward it will have behind it the power of solid and convinced public opinion prepared to make the law effective".

In another sentence he said:

"Still it is a sound principle of social legislation that the Legislature should always be somewhat in advance of current opinion, while of course never going so far in advance of that opinion that the law itself would become inoperative".

I think it was the principle adopted in the past in regard to the Sarda Act and it satisfies the requirements of the present situation as well. Therefore, I think there is nothing but merely futile opposition in the observations of Sir A. P. Patro on a useful measure like this. I hope no attention will be paid to his arguments!

With regard to my Mussulman friends I really feel sorry that I cannot get their support to this Bill. Of course, they are entitled to have their views in the matter ; but I would ask them to read the evidence and the conclusions of the Committee which was appointed to go into this question, the Age of Consent Committee. They have recorded the opinions of various Hindu and Mussulman jurists and have also collected statistical information regarding the magnitude of the evil prevalent in each province. They have mentioned particularly the province from which my friend Mr. Hossain Imam comes. They have given figures to show to what extent the evil exists in Behar. Those are facts collected from Government's and other authentic publications, and I would ask him to read those figures and also the recommendations, before he makes any statement about the existence or non-existence of the evil in various provinces. I would also ask my Mussulman friends to read the marriage reform laws in Egypt and Turkey. In those two countries Mussulman Governments are ruling and they have recently changed their marriage laws so rationally as to set the example to Mussulmans all over the world. Turkey and Egypt are Muslim countries familiar with the Shariat and Muslim Law, and their Acts in this regard are available to us. The Turkish and Egyptian laws on the subject are published as an appendix to the Age of Consent Committee's Report itself. I would request him to read those Acts. Then I would like to say a word with regard to the support which Mr. B. Das's measure received in the other House. Mr. Jinnah's speech in supporting the original Bill was quoted by the Law Member Sir Nripendra Sircar. Mr. Jinnah is a very prominent Member of the Assembly and is also the Leader of the Muslim League, the section to which my friend Mr. Hossain Imam claims to belong politically. Then, Sir, one of the Members of the Assembly, Mr. Ghias-ud-din, also gave his support in that House to Mr. Das's Bill. So it is not right to say that the Mussalman community as such is opposed to the Bill. I am pleading for a national cause. By all means let us divide this House on political and economic issues but not on communal issues. I am very sorry that after the statement of Haji Syed Muhammad Husain, to which no exception can be taken, my friend Mr. Hossain Imam has raised very keen communal issues. I am sorry. It is not a question of Hindu or Muslim or Parsi or Christian. It is an issue of national concern.

One more word in regard to this matter which is of topical interest. Her Excellency the Marchioness of Linlithgow is now devoting her attention to the eradication of a dreadful disease, tuberculosis, in this country. I mention this for this reason. A very eminent lady doctor, Dr. Campbell who was Principal of the Lady Hardinge Medical College here and who also practised in Madras and did very well, gave her opinion that child marriage had a great deal to do with the prevalence of tuberculosis in this country. Only three lines of her evidence are available to me for quotation to this House and I will read them. She said :

I P. M.

" She had attended more than one thousand Hindu girls for child births at the ages of from 12 to 16 years. And the evil effects seen in them and in others under observation or treatment as a result of early child bearing could hardly be exaggerated ".

Then she said :

" Tuberculosis was very often developed during pregnancy or lactation as the resistance of the tissues was lowered by the strain, unnatural at so early an age. This is the reason why tuberculosis was much more common in girls than in boys. About 40 per cent. of the girl mothers died in the first year and those who survived were weaklings ".

This evidence is with regard to both Hindus and Mussalmans. Is there any point in erecting hospitals to eradicate this disease and in Her Excellency taking so much trouble on behalf of the people of this country, if we cannot eradicate

[Mr. Ramadas Pantulu.]

one of the root causes of this disease? One important cause according to the lady doctor was early marriage. Therefore, while we are thankful to Her Excellency for all that she is doing, I hope she will, in the cause not only of the womanhood of this country but also the nation as a whole, lend her powerful support to make this legislation live and effective.

Sir, with regard to the actual provisions of this Bill, something has been said about the omission of a particular clause which was originally introduced by Mr. Das about the separate residence of the girl and also prevention of the consummation. With regard to the consummation, there seems to be some slight misunderstanding. I would point out to this House that so early as 1925 the Indian Penal Code has been amended by substituting the figure "14" for the figure "12" in the section defining rape—375. Therefore, there will be no consummation before 14. It will be an offence under the Act. It is four years after the Penal Code has been amended by raising the age of consent to 14 that the Sarda Act became law by also raising the age of marriage to 14. Therefore all that quibble about sacrament, sacrifice or betrothal is meaningless, because there can be no real marriage, consummation, before 14 under the law as amended in 1925 and the Sarda Act merely brought up the age of marriage to the same level as the age of consent under the Indian Penal Code. Therefore, all this learning is wasted upon an issue which does not really arise. The only thing that is said against the new section that Mr. Das has put into the Bill is that the punishment is drastic. As I have already said the punishment is intended for those who knowingly violate an injunction of a court. It should have been a much more drastic punishment. It is not a case of those doing a thing not knowing the consequences, but of those who not only violate the law, but also violate an injunction of a court, I think the punishment is not too severe.

I do not think I need dwell on any of the other matters about which some controversy is raised. All that I say is that the past is gliding slowly into the future through the present and there will be always some mourners of the past. What cheers us is that the original framer Diwan Bahadur Sarda belongs to a past generation though he is happily with us still to carry on his useful work and Pandit Malaviya who was then in the other House and who supported the measure is a man of the past generation too. Therefore, with such evidence before us, that even in the past generation there are men who want to eradicate this evil, it is somewhat surprising to find young men who belong to the present and who are going to be the future leaders should be among the mourners of a custom which is the corroding evil in the life of this nation.

I do not know what is contained in the Koran or any of the Muhammadan religious works, but all that I can say is that on the former occasion when the question was debated in this House, Sir Fazl-i-Husain dealt with these arguments at some length and he said that there was nothing in the Koran or Muhammadan scriptures against it. I would once more appeal to my Muslim friends not to make such questions of national importance questions of a communal character. Nothing can be a greater disaster than giving to these questions a communal turn. Sir, the case for Indian women was put forward very feelingly by Sir James Crerar when he spoke on this Bill on the last occasion. I would just read one or two sentences from his speech before I conclude. Just as on the present occasion on the last occasion also Government gave their whole-hearted support to the principle of the Bill and on that occasion Sir James Crerar gave his support in these words :

"That evil, Sir, is one which afflicts, in the first instance, the most defenceless, innocent section of the community, those who have the greatest claim to our protection. The

evil is not only limited to that. It is not merely the large number of young girls who year by year either die or sustain serious bodily injury, but those who are acquainted with the case, those who have studied the evidence, those more particularly who have come into contact with the practical facts and the practical consequences cannot contemplate them without—I put it no higher than this—the most serious searchings of mind, heart and conscience. It is not merely that generation after generation of young girls should be exposed to or should suffer from these evils, but there are dangers to the future generations of the country from which, if the country is not willing to adopt a remedy, it will undoubtedly suffer in its most vital and important interests”.

Very appropriate words to this occasion as well. Sir, I plead for this Bill not only to ensure that we in this generation get healthy wives and healthy mothers but also to see that the women of this country are allowed to have a chance of attaining the standards which women in civilised countries do and to give them a chance to share in the new currents of life in the modern world. (Applause.)

THE HONOURABLE THE PRESIDENT : Motion made :

“That the Bill further to amend the Child Marriage Restraint Act, 1929, as passed by the Legislative Assembly, be taken into consideration.”

Question put and Motion adopted.

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

Clauses 5 and 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. RAMADAS PANTULU : Sir, I move :

“That the Bill further to amend the Child Marriage Restraint Act, 1929, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

The Council then adjourned *sine die*.
