

THE



# Bombay Government Gazette.

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

## PART V.

### PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Extract from the Proceedings of the Governor of Bombay in the Legislative Department is published for general information:—

*Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."*

The Council met at Poona on Saturday the 8th August 1891, at 3-30 P.M.

#### PRESENT:

- His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay, *Presiding.*
- His Excellency Lieut.-General the Honourable Sir GEORGE R. GREAVES, K.C.B., K.C.M.G.
- The Honourable Sir R. WEST, K.C.I.E.
- The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.
- The Honourable the ADVOCATE GENERAL.
- The Honourable Ráo Bahádúr MAHADEO GOVIND RANADE, M.A., LL.B., C.I.E.
- The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.
- The Honourable Mr. FORREST.
- The Honourable Ráo Bahádúr OODHARAM MULCHAND.
- The Honourable Mr. FAZULBHOY VISRAM.
- The Honourable Mr. LINGAPA JAYAPA DESAI.
- The Honourable Mr. MOORE.

Papers presented to the Council.

The following paper was presented to the Council:—

- (1) Letter from the Secretary, Millowners' Association, Bombay, dated the 23rd July 1891.

## THE BOMBAY BOILER INSPECTION BILL.

Consideration of the Bombay Boiler Inspection Bill in detail.

Bill No. 1 of 1891 (a Bill to amend the Law for the Periodical Inspection and the Management by competent Engineers of Boilers and Prime Movers in the Presidency of Bombay) was considered in detail.

The preamble was postponed.

Consideration of the amendments to section 1 was also postponed.

In section 3, clause (a), line 9, the Honourable Mr. Wadia had the following amendment:—

To omit the words "and any steam chest".

His Excellency the PRESIDENT:—In the absence of the Honourable Mr. Wadia will any one take up his amendment?

The Honourable Mr. FORREST:—I will not take up Mr. Wadia's amendment as it stands, but in lieu of it I will propose in section 3, clause (a), line 9, to omit the words "steam chest or," as there are many steam chests which are not closely connected with boilers.

The Honourable Sir RAYMOND WEST said:—The honourable member will recollect that the words "and any steam chest or other apparatus closely attached thereto" were placed there after a good deal of discussion. Mr. Wadia as an expert had special influence and authority in the Committee, and it was after discussion with him that the words were introduced in the particular connection in which they are now used. The words of the Act mean, of course, only steam chests which are attached to boilers. It being a particular species of the genus apparatus, it is only in cases of steam chests attached to the boiler that the clauses were applied, and for that purpose the expression was approved with the consent at the time of Mr. Wadia, although afterwards he thought that it would be better to leave out the words "steam chest". If it were removed, grammatically the clause would be the same, but it being there some argument might be founded on its omission and it might be said that there was some meaning in its being struck out. It is better that the words "steam chest" having been introduced with the assent of the best expert that could advise us on the subject, should remain where they are, and there cannot be any apprehension, after the explanation I have given, of its being misinterpreted to steam chests standing a considerable distance from boilers.

The Honourable Mr. J. U. YAJNIK:—I cannot say what was in the mind of the Honourable Mr. Wadia when he proposed that the words "steam chest" should be taken out after consenting to their insertion, but I remember a case in which an inspector called upon the owner of a factory up-country to set apart certain parts of the boiler and engine, in order that he might have time to inspect the different parts. In mentioning what parts he, the owner, should take out belonging to the boiler and engine he included the steam chest among the parts of an engine. So that up-country at all events the idea of a steam chest is that it forms part of a steam engine, and in giving specifications for engines and boilers, the words "steam chest" come under the specification for engines. Generally, a steam chest is considered part of a steam engine, and I think, as that is the general idea, probably Mr. Wadia considered that as it may sometimes form part of an engine and at other times part of a boiler, it is better that the words should be taken out altogether.

His Excellency the PRESIDENT:—Although it may form part of either?

The Honourable Sir RAYMOND WEST:—If the apparatus steam chest is attached to a boiler, then it is of the subject of the Act, not otherwise. It is only in the case of its being closely attached to the boiler.

His Excellency the PRESIDENT:—The Act says "steam chest closely attached thereto".

The Honourable Sir RAYMOND WEST:—The steam chest is a particular species of the genus apparatus. They are put on a parallel.

His Excellency the PRESIDENT:—If we cut out "any steam chest or" the clause still provides for the steam chest, because it would be included in "other apparatus".

The Honourable Mr. FORREST :—It certainly would.

The Honourable Sir RAYMOND WEST :—That is only a reason for maintaining it, and as it is so introduced with the assent of our expert member of the Committee, there would be danger in excluding it, and there is no danger in keeping it in.

The Honourable Mr. YAJNIK :—Keeping it when the expert member proposes that it should be deleted.

The Honourable Sir RAYMOND WEST :—The objection would equally apply whether he did or did not.

His Excellency the PRESIDENT :—Mr. Wadia intended and expected that attachments close to a steam-boiler would be examined, and the object of the inclusion of the words is only to cover steam chests closely attached to the boiler, in order to indicate what kind of steam chests would be examined.

The Honourable Sir RAYMOND WEST :—We adopted these words after very careful consideration, at Mr. Wadia's own suggestion. As we have not the technical knowledge that he has, I should hesitate to take out the words after the explanation he gave us.

The Honourable Mr. YAJNIK :—After very careful consideration by the Committee he considered it desirable to remove the words.

The Honourable Sir RAYMOND WEST :—We had not the opportunity of conference or cross-examination on that occasion.

The Honourable Mr. FORREST :—The clause means to include everything that is near the boiler, and as far as I know there is no steam chest at present attached to a boiler but a "dome". The Honourable Mover of the Bill has remarked that the omission of the words after they had once been introduced into the Bill would give room for argument as to the reason of the omission, and he considered it possible that it might be held that the words "steam chest" were not included under "other apparatus". Following that argument I think it might also be considered that if the question is raised, the remarks made in this Council will also be adduced so as to show that the clause is meant to apply to everything near the boiler.

His Excellency the PRESIDENT :—I understand from the Honourable Mr. Yajnik there are some steam chests not attached to the boiler.

The Honourable Mr. YAJNIK :—There are, under different names.

The Honourable Sir RAYMOND WEST :—Mr. Wadia said there were steam chests and steam chests and the words were put in at his suggestion. We had no idea before that there were steam chests of very various kinds. I am not acquainted with the technical sense of the "dome," and I should feel some doubt about inserting the word instead of "steam chest". It is better to leave the words, as we know where we are, and if we removed them we should not.

The Honourable Mr. FORREST :—The Millowners' Association thought it had something to do with prime movers.

His Excellency the PRESIDENT then put the question that the words proposed to be omitted stand part of the section. The Council divided when the numbers were :—

*For.*

*Against.*

H. E. the Hon. Sir G. GREAVES.  
 Hon. Sir R. WEST.  
 Hon. Sir C. PRITCHARD.  
 Hon. the ADVOCATE GENERAL.  
 Hon. Ráo Bahádur OODHARAM MULCHAND.  
 Hon. Mr. LINGAPPA JAYAPPA.  
 Hon. Mr. J. G. MOORE.

Hon. Ráo Bahádur M. G. RANADE.  
 Hon. Mr. JAVERILAL U. YAJNIK.  
 Hon. Mr. FORREST.  
 Hon. Mr. FAZULBUOY VISRAM.

*For 7. Against 4.*

The amendment was therefore lost.

The Honourable Mr. Forrest's amendment to omit clause (b) of the same section containing the definition of prime mover, was postponed.

The Honourable Mr. Javerilal U. Yajnik moved in section 4, sub-section (1), line 3, to insert between the words "more" and "inspectors" the word "competent."



He said—In proposing the addition of the word “competent” I trust it will not for one moment be supposed that I hold that Government would appoint incompetent inspectors. My object is that, since we enact a law for the competent management of boilers, we should, I think, provide at the same time that in all cases Government shall appoint competent inspectors. It is to be particularly remembered that mechanical science progresses every day, and most competent men have the management of many steam mills and factories. To test the work of such men it is desirable that the Inspector should be a highly qualified person—a man who has kept himself abreast of the progress of the age in mechanical science. His decisions must be such as to command the respect of skilled Managers of mills. Otherwise there would be numerous appeals in regard to technical points. I, therefore, propose that the word “competent” form part of the section.

The Honourable Sir RAYMOND WEST said :—If the honourable member desires that the inspector's competency should remain unquestioned, he has adopted the very worst means of attaining that end, for it would still remain an open question who is to determine who is and who is not competent? The general principle recognised by law and always observed by Government in making appointments is that the man employed holds his appointment on condition of his being competent; the moment it can be proved that he is incompetent to carry on the duties for which he is employed, he is supposed to have vacated his employment, and will be immediately dismissed by Government; but now inserting the word “competent” as proposed by the honourable member, would appear to imply that Government may employ incompetent Inspectors, *i. e.*, condemn the Inspector or at any rate question his fitness and invite controversy before his supposed incompetency can be brought home to him. It is therefore most undesirable that such points should be raised and the competence of men employed by Government prejudged, such points should on no account be introduced in Acts, as it would raise many questions, and might be interpreted in a thousand different ways. It is better to leave it to Government to judge the competence of the Inspectors it employs, and I think the insertion of the word “competent” in this section superfluous.

His Excellency the PRESIDENT :—I think the honourable member might trust to Government doing their best.

The Honourable Mr. YAJNIK :—I do, your Excellency, and will withdraw the amendment.

The Honourable Mr. FAZULBHOY VISRAM moved in section 5, line 8, between the words “of” and “such” to insert the words “one expert to be named by the Bombay Millowners' Association and”; also between the words “such” and “person” to insert the word “other.”

He said—I do not propose to trouble the Council with any lengthy remarks. I have already expressed my approval of the principle of the Bill, which is certainly a most desirable measure, and I feel that is the view of all honourable members. The Select Committee has made several alterations in it, most of which are, no doubt, necessary, but, according to my humble opinion, at least, *two* more are called for, and I have endeavoured to embody them in my amendments. The first of these is: In section 5, line 8, between the words “of” and “such” to insert the words “one expert to be nominated by the Bombay Millowners' Association and.” I see that the amendment I venture to propose has also been suggested by the Bombay Millowners' Association, a body whose representations will no doubt be favourably considered by this Council. I consider that the presence in the Commission of a representative of such a body as this Association will be of considerable assistance in the disposal of appeals, and will, at the same time, render the decisions of the Commission more satisfactory to all the parties concerned. I entirely agree with the reasons given by the Millowners' Association in favour of the amendment, and should it, in substance, be agreed to, I would have the wording of the Association's letter substituted for my own.

The Honourable Sir RAYMOND WEST said :—The honourable member desires that the Commission should in every case include one expert to be named by the Bombay Millowners' Association. The question immediately arises on what principle Commissions ought to be formed, whether members of the Commission ought to be appointed and other offices filled by the vote of associations, or on the responsibility of Government. I dealt with this subject in my speech on the first reading of the Bill and pointed out that it was opposed to all recognised principles of administration that the appointment of officers



should not be left to the Executive Government. The Government may take advice from all quarters, but it is not desirable to place responsibility on groups of private individuals, otherwise you have it divided amongst several bodies, and that means no responsibility at all. There is a writer frequently quoted in this country, John Stuart Mill, and if you will refer to his book on Representative Government you will find that he urges a strong argument on this point. He says that in an Executive Government you have a definite body which is distinctly responsible and with them should be the power of appointment of responsible officers. If you diffuse the power there is no real responsibility at all. The Government might be called upon by a Millowners' Association in some other place for power to appoint an expert, whose only fitness for the work might be that he was elected by a body totally irresponsible. If you leave the selection to Government, the Government can take advice from those able to give it. There is no reason to suppose that the Government will not endeavour to put on the Commission the best men it can get, for its interest will lie in the direction of having the Commission efficient. It is far better to leave the responsibility with the Government, which is now capable and more definitely responsible than any voluntary casual body for such appointments. It would be dangerous in principle and wrong in practice to insert the words proposed in the amendment.

His Excellency the PRESIDENT:—Another objection to the insertion of any one Association is that there is no security for the existence of that Association. From what we know of the Bombay Millowners' Association it has at present every sign of vitality, but we cannot deal with the future, and revolutions have occurred in more powerful bodies than the Millowners' Association. There might be a difference of opinion in that body which might end in a split of the Association into two bodies. Then which would be the Millowners' Association? This Council then might have to assemble and go through the labour of amending the Bill, simply because an association of this kind had quarrelled within itself and split into two. I think it would be a dangerous precedent to include in an Act the title of a particular association not being a permanent body, as it would be if included in an Act.

The Honourable Mr. FAZULBHOY VISRAM:—There is no doubt that so long as mills exist the Association will also exist, and in the event of its being split into two bodies one of these must succeed to the title.

The Honourable the ADVOCATE GENERAL:—It is not a corporate body.

The Honourable Mr. FAZULBHOY VISRAM:—I am not anxious to press the amendment after the assurances given by the Honourable Sir Raymond West.

His Excellency the PRESIDENT:—Then your subsequent amendment drops naturally.

The Honourable Ráo Bahádúr OODHARAM MULCHAND proposed that in section 5 the following clause should be added:

“Government shall appoint one or more Commissions in Sind for the purposes of this Act.”

He said:—Sind is at a great distance from Bombay and I submit it would be inconvenient for the people of Sind to send their appeals to a Commissioner at Bombay. It will be a great convenience if a separate Commission is appointed for Sind. I believe there is a Commission now under the old Act and I trust the privilege will continue. I would prefer an express provision for that purpose so that Sind might not be lost sight of. It is simply a matter of convenience to the people.

The Honourable Sir RAYMOND WEST:—The honourable member admits that Commissions such as he desires have been appointed under the existing Act and Government would do so under the new if necessity arose. It is better in this as other matters to leave the appointment to the discretion of Government. It may be that some particular question will require special experts to consider it, and that Karáchi—for that is Sind—may not have within it a gentleman who has the special scientific knowledge required. It will be the duty of Government to appoint a Commission to Sind when public interest is promoted by it. There might be other circumstances. People acquainted with mills are a small body, and it might be undesirable to appoint a Commission out of the few such people in Karáchi. In these days when locomotion is rapid and convenient, I think it unnecessary that special mention should be made of Sind in this Act. The fact is that, in the matter of detail in carrying out an Act of the kind, it is better to leave the matter to the responsible discretion of Government which has

no object, but to give effect to the Act, and it will consider the welfare of Sind as well as other parts of the Presidency. I trust the honourable member will withdraw the amendment which, I feel sure, he will see will not serve any good purpose and might at some time obstruct the administration of the Act.

The Honourable Ráo Bahádúr OODHARAM MULCHAND:—With that assurance of the Honourable Sir Raymond West, I will withdraw the amendment.

The Honourable Mr. YAJNIK moved to amend section 6, clause (d), line 36, and clause (f), lines 60 and 61, by omitting the words "direct and immediate" and in proposing it, said:—Your Excellency, the trouble and vexation which this expression has given in times past to the Millowners of Bombay has compelled me to put forward this amendment. Inspectors and Government officials have put on these expressions a literal meaning, viz., that the engineer in charge should always be present on the spot, and that he should not be even allowed to absent himself temporarily for the purpose of taking food, or in case of short sickness, &c. In support of this statement I may refer to the correspondence which had taken place on this subject from the year 1888 between the Millowners' Association and the Boiler Inspector, and the strict interpretation put on the expression by the Inspector. I will first quote from the circular letter of the 2nd July 1888 of Mr. Moylan, the then Boiler Inspector, to the agents of mills. Mr. Moylan at the close of the letter says:—'And further, that it having been noticed in many instances that engineers in charge are frequently absent from the mills, and the boilers and engines left in sole charge of uncertificated men, that you are hereby informed that it has been ruled that an engineer *so placed in charge should not quit the premises* while such boiler or boilers are *under steam* and the engines working, except when relieved by an engineer of the class deemed capable, according to the rules, of having charge of such boiler or boilers; and that, under orders, I am requested, wherever I find a boiler or boilers of prime mover *worked under the supervision of an engineer* who, by reason of being engaged in other work at a different place, *or is absent while such boiler or boilers are working*, that I am to proceed forthwith against the agent or owner under section 27 of the Act.' In reply to this, the Millowners' Association said:—"With respect to your observations regarding the absence of engineers from the premises while boilers are under steam and engines working, I am directed to enquire whether these would apply to the temporary absence during meal times or, say, for an hour or two at a time while engaged at other work on the premises or in the immediate neighbourhood. Should the law be interpreted as requiring the absolute presence of engineers in boiler-houses according to the strict sense of your letter, it must be apparent to you that every mill would require at least two certificated engineers which any committee can scarcely think it really intended." Government at last vouchsafed an interpretation which was thus communicated by Mr. Tom Drewett, Senior Inspector of Steam Boilers, and Mr. Bagnell, for Collector of Bombay, in their letter of the 7th January 1890 to the Agents of the Colába Mills:—"Government having been asked for an interpretation of section 24 of the Boiler Inspection Act III of 1887, which lays down 'no certificate shall be granted for a boiler unless the owner shall have in his employ as engineer *in direct and immediate supervision thereof* a fit and proper person,' and whether one engineer can be allowed in charge of boilers situated in two separate premises, have after due consideration resolved that the direct and immediate supervision referred to in that section means '*unobstructed and uninterrupted* overseeing,' so that the engineer in charge was intended to be always directly and immediately available, so that he might always be consulted *and give his orders by word of mouth with the engine actually in his view*, and that the Legislature did not contemplate that the engineer should be in charge of different boilers in different buildings." To this letter the Millowners, in their reply, dated the 6th February 1890, said, among other things, that "*it is scarcely necessary for me to point out that engineers do not and cannot remain in the boiler house from the time that steam is first started until it is cut off.*" That would, in fact, amount to making an engineer into a stoker or fireman, and the Committee of this Association are not prepared to think that Government would attach such an interpretation to an engineer's supposed duties." In putting these contentions of the Millowners forward, I am not unmindful of what has been urged on the other side. In his observations at the second reading of this Bill in Bombay in March last, the honorable mover of the Bill, referring to the expression "direct and immediate," remarked that, "if you have engines for which you want the direct supervision of the engineer you must make sure of it as a condition of the working and of the certificate, because other-

wise he might under his agreement take six months' leave, and the engines might be left in the hands of any one. Direct supervision means personal supervision, so that the engineer may be called in to put anything to rights, to view the engines and machinery, and to use such means as human knowledge and science will enable any one to employ. It means that the supervision is to be a substantial and not a delegated and sub-delegated one in which all assured competence is frittered away. That is the idea attached to the words 'direct and immediate supervision.' I am not aware of any words more appropriate in order to meet the views of the gentlemen who suggest a modification. The principle is this. You must have personal supervision and personal responsibility for the supervision, because if you deviate once from that there is a tendency to delegate the hardest work to those who receive least pay for it and are very often the least competent for it. But while the Bill recognizes that the only effectual supervision is 'direct and immediate supervision' it adds to the present law a provision reasonable in itself, and in favour of the Millowners, as compared with the existing law, viz., that the supervision of two sets of boilers not more than a thousand yards distant from each other may be committed to a single engineer. 'Direct and immediate supervision' cannot, and does not mean that he must be for every moment on the spot with his eyes fixed on the boiler and machinery; but it does mean this that he must be personally able to answer at any moment for the safety and good working of the boilers in a reasonable sense. It does not go beyond that. I see that the Millowners' Association refer to the discussion which took place some time ago on the subject of what these words mean, and Government ruled at that time that the present Act means that the engineer might be always able to give his opinion and order. Government was guided by the opinion of its law officers, and this was manifestly right, because were you to depart from that sense he might go to Mátherán or Máhableshtar, he might view the engines once in six months, and still in one sense be entitled to be called an overseer; yet he would not be capable of answering at any time for the state of the boilers in a responsible sense. I do not see how it can be put in fitter terms." I have thus tried, your Excellency, to put both sides of this controversial matter before the Council. One remark I should like to make on this and that is that it is clear both sides agree in avoiding to take extreme views. The Millowners do not desire that an engineer absent on leave for a pretty long time should be regarded as having "direct and immediate supervision" of engines and boilers. Government, on the other hand, do not hold that an engineer should at every moment of the working day be overlooking engines and boilers. But the contention of the Millowners is that inasmuch as some years ago the words "direct and immediate supervision" were strictly construed by Government into *unobstructed and uninterrupted overseeing*, so that the engineer in charge was intended always to be at his post with his eyes fixed on boiler or engine, though this was practically impossible, it is desirable that the object of Government should be properly defined by the insertion of an interpretation clause. It seems to me that the object of the section would be met if the words were omitted or some such words as "responsible supervision" were placed in substitution of the words "direct and immediate supervision," or if the honourable mover does not assent to this proposition, some distinct interpretation of the clause should, I think, be given to the effect that Millowners shall not be deemed to have broken the law if an engineer should absent himself for a few hours or go on sick leave for a short time. If such an interpretation is put upon the expression it will meet my object. I am quite sure that so long as the honourable mover is a member of the Government no such extreme interpretation will be put upon it, but as we were reminded just now by your Excellency, changes do occur in the constitution of Government, and the views which may be held at one time by Government may not be the views held at another time. It will ultimately come to this, if the words are allowed to remain, that the matter will be referred to the High Court for an interpretation and in that case a strictly legal view of the matter is likely to be taken.

The Honourable Sir RAYMOND WEST:—The honourable member has quoted from the debate on the last occasion, and I feel much complimented by his doing so, for it has had a very convincing effect upon me to hear the arguments I addressed to the Council on that occasion. It has not been answered, and no one has attempted to do so. I don't think the honourable member has done so. A little further on in the debate on that occasion the very words now in question came under discussion and honourable members and the public were invited to suggest some other words than "direct and immediate." There has not been the least suggestion of a more appropriate form of words.



The Honourable Mr. YAJNIK :—I have suggested “responsible.”

The Honourable Sir RAYMOND WEST :—I have not forgotten it, and I think it would not be an appropriate form of words because a man is only responsible according to the nature of an appointment. If he is employed to look at engines or boilers once a week or once a month he is responsible for what he has contracted to do. It is quite feasible that an engineer may be employed to look after a hundred engines and he would be responsible for looking at them once a week, month or year. Therefore, the word “responsible” is too vague and too little pertinent to the particular matter. “Direct and immediate” do suffice and do not in my opinion go too far. Difficulties as to their construction cannot arise if the section takes the form proposed now. In clause (f) it is indicated what shall be implied. It does not necessarily mean that an engineer shall have his eyes fixed on each particular boiler at each particular moment of the day, if that were possible, but is consistent with his occasional absence from the boiler-house. “Direct and immediate” taken with clause (f) shows what is meant and the difficulties that have before arisen on an extreme interpretation of the law cannot arise. I do not know what is done in the High Court now, but a few years ago when I had the honour of a seat there, had this section come before the honourable Justices they would have taken all the parts of the enactment and interpreted one line with another, and taking the different clauses of the section it is perfectly obvious that “direct and immediate” does not imply that an engineer is to have his eyes fixed on an object for the whole of the day. That is a sufficient answer to the arguments adduced, but the practical answer is to be found in the fact that an invitation was issued months ago and no more appropriate set of words is forthcoming, which imply that an engineer has engines under his personal control with personal responsibility and a capacity for going at once—whether it be exercised or not—if anything went wrong and setting it right. What is wanted to be conveyed is that an engineer must be on the spot answerable for the proper working of the engines. Otherwise he may simply call once a month and depute his office to an incompetent man. I think the words ought to be retained.

The Honourable Mr. YAJNIK :—Would you not give any interpretation of the words?

The Honourable Sir RAYMOND WEST :—What does the honourable member propose by way of interpretation which would not make matters more obscure?

The Honourable Ráo Bahádúr M. G. RANADE :—To my mind there would be no confusion if the words “direct and immediate” were retained and the words “management and charge” substituted for the word “supervision.” If the section read “immediate management and charge thereof” it would occasion no confusion. The engineer would still be in charge without always being on the spot, looking at the matter that way the difficulty might be removed.

The Honourable Sir RAYMOND WEST said :—If the honourable member would rather have “management and charge” in order to have no misinterpretation in future, I don’t think we could take any objection to it.

The Honourable Mr. YAJNIK then suggested that only the word “charge” should be substituted for supervision, and not management.

The Honourable Sir RAYMOND WEST said :—No; a man may have the charge of a boiler and yet he may not be able to manage it; we want the words “management and charge” together.

His Excellency the PRESIDENT said :—Mr. Ranade has suggested that the words “management and charge” be inserted after the words “direct and immediate” in section 6, clause f, line 36, and in clause f, lines 60 and 61, instead of the word “supervision”.

The Honourable Mr. Yajnik having withdrawn his amendment, the Honourable Mr. Ranade’s amendment was put and accepted.

The Honourable Sir RAYMOND WEST with the permission of the President moved as consequential amendments that in line 38 of the same section, the word “and” be substituted for “or”, and in line 52 of the same section the words “manage and be in charge of” be substituted for the word “supervise” and also that in line 61 the words “management and charge” be substituted for the word “supervision”. All these amendments were adopted.

The Honourable Sir RAYMOND WEST then proposed the following amendment in section 6, line 59, for the word "shall" to substitute the words "may notwithstanding their distance from each other", and said:—The reason of the introduction of the present amendment, after the discussion we had regarding the words "direct and immediate", will be obvious to all the honourable members; it means that although the engines shall be a thousand feet apart from each other, this distance shall be of no consequence, and the engineer shall be considered to be in direct and immediate charge, or, as the words will now read, "shall notwithstanding this distance from each other be deemed to be employed in direct and immediate charge and management, &c."

The amendment was adopted.

The Honourable Ráo Bahádur OODHARAM MULCHAND moved that in section 7, sub-section 2, lines 36, 37 and 38, for the words "if it be situate in the city of Bombay to the inspector appointed by Government under this Act for the said city" the words "to the inspector wherever one has been appointed by Government under this Act" should be substituted."

He said—I see no reason why other people should not be on the same footing as those in Bombay if an inspector has been appointed in that place.

The Honourable Sir RAYMOND WEST:—The honourable member has a certain amount of reason on his side, but I think the expression might be improved. This phraseology would be better: "If it be situate in a city or town for which an inspector has been appointed by Government, to such inspector." I will propose that after the words "if it be situate in" the words "the city of Bombay.....said city" should be omitted and the words "a city or town for which expressly an Inspector has been appointed by Government, to such Inspector" substituted for them.

The Honourable Ráo Bahádur Oodharam Mulchand withdrew his amendment in favour of that of the honourable mover which was adopted.

The Honourable Ráo Bahádur OODHARAM MULCHAND moved that in the same section, sub-section 4, line 49, for the words "in the City of Bombay" to substitute the words "in the places where an inspector has been appointed by Government."

The Honourable Sir RAYMOND WEST:—Here, again, I would suggest in line 48 after the word "be" to insert "not" and in the same line after the word "situate" to omit the words "elsewhere than in the city of Bombay" and insert instead the words "in a city or town for which expressly an inspector has been appointed by Government."

The Honourable Ráo Bahádur OODHARAM MULCHAND:—I accept that in preference to my own amendment.

The Honourable Sir R. WEST's amendment was then put and adopted.

The Honourable Ráo Bahádur OODHARAM MULCHAND moved that in the same section, sub-section 4, line 57, for the figure "20" the figure "10" be substituted.

He said:—I propose that the time be reduced to 10 days. In many parts of Sind boilers are only worked for a few months in the year, and I think ten days are enough for all practical purposes. The shorter the time the better.

The Honourable Sir RAYMOND WEST:—No doubt 10 would be better than 20, and 5 would be better than 10. But the matter has been considered in Committee and the decision arrived at is that you cannot practically insist upon a shorter time than 20 days, because the inspector may be engaged on equally urgent work elsewhere. Although in all ordinary cases he may come within a week, yet there may be certain circumstances to prevent him and we put down 20 as the limit. I trust the honourable member will not insist upon any change after the matter has been agreed to by all members of the Committee.

The amendment was withdrawn.

The Honourable Ráo Bahádur OODHARAM MULCHAND moved that in the same section, sub-section 6, line 66, between the words "Bombay" and "for" the words "or Karáchi" be inserted and that the necessary corrections incidental thereto in the same section be made.

He said—I submit that Karáchi stands in the same position as Bombay in respect of the matter of this section.

The Honourable Sir RAYMOND WEST:—There is no objection to accepting this amendment with its consequential alterations.

The amendment was adopted.

The Honourable Sir RAYMOND WEST then moved as consequential amendments that in lines 67 and 73 of sub-section 6 the words "cities" be substituted for "city" and that in line 73 the words "either of" be inserted between "from" and "the".

These amendments were adopted.

The Honourable Mr. OODHARAM MULCHAND moved that in section 11, sub-section 1, line 8, between the words "Bombay" and "and" to insert the words "or Karáchi", and said that as four days were allowed in Bombay, he thought the same privilege should be extended also to Karáchi.

The Honourable Sir RAYMOND WEST:—In Bombay, where there are always a large number of professional experts, it will not be difficult to appoint a Commission within four days, but such is not the case either at Karáchi or elsewhere in the Mofussil. But if in time it is found that it is possible to have such Commissions appointed in Sind within such short time, Government will surely extend this to Karáchi, and I will propose when we come to section 34 that Government shall have power to extend this from time to time to any place where it is found desirable—as for instance places like Karáchi, Poona, Ahmedabad, &c.,—and I trust the honourable member will be satisfied with this provision.

His Excellency the PRESIDENT:—Yes, I think the power given to Government in section 34 is sufficient to make this applicable to places where it is found by experience to be necessary.

The Honourable Mr. Oodharam Mulchand then withdrew his amendment.

The Honourable Mr. OODHARAM MULCHAND moved that in section 13, sub-section 1, line 5, after the figure "11" to add the words "after giving notice to and hearing the owner of the boiler"; and said that he wished to introduce those words in order to make this section more clear.

The Honourable Sir RAYMOND WEST:—I think if the honourable member wants the section to be more fully explicit, we can have these words "after such inquiry as shall seem just" inserted after "may" in line 2, as the words proposed by the honourable member may necessitate the Commission waiting, and the words proposed carry the full intention of his amendment.

His Excellency the PRESIDENT:—Yes, I think the Honourable Sir Raymond West's amendment might be accepted.

The Honourable Mr. OODHARAM MULCHAND:—I have no objection and will withdraw my amendment.

The Honourable Sir Raymond West's amendment was adopted.

His Excellency the PRESIDENT said:—Before proceeding further I would draw your attention to the Honourable Mr. Wadia's speech in page 47 of the *Bombay Government Gazette*, dated May 2nd, regarding section 16, clause 1, where he notices an error which is liable to be misconstrued, and suggests that instead of the words "the machinery" the words "any apparatus" be substituted, and I think a similar suggestion has been made by the Millowners' Association in their letter of the 24th March. I do not know if any honourable member wishes to move this amendment. The Honourable Mr. Yajnik offered to do so and moved that in section 16, clause 1, line 8, for "the machinery" the words "any apparatus" be substituted.

The amendment was adopted.

The Honourable Mr. OODHARAM MULCHAND moved that sub-section 4 of section 16 be omitted. He said that section 36 amply empowers the Collector to issue any orders he thinks fit regarding a boiler, and that the owner is bound to obey, and so this sub-section is superfluous, as, in cases of accidents in the Mofussil, the Collector has entirely to depend on the statement of the subordinate officers; and to authorize "any person" to visit the scene of disaster would be to throw the owner of the boiler at the mercy of "any person". Of course in Bombay, where there are Inspectors available, such person would be the Inspector, but this will not be the case in the Mofussil.



The Honourable Sir RAYMOND WEST said:—Inspection by the Collector is not the best conceivable, but he is a responsible person, and as in outstations Inspectors might not be available, the Collector must have power to authorize some person to inspect accidents when it cannot be personally done, but where there is an Inspector available, certainly he will be the person to proceed to inspect the accident; therefore I think the clause as it stands is correct, and no sufficient reason has been shown for any change. I hope, therefore, the honourable member will not insist on any change.

The Honourable Mr. OODHARAM MULCHAND:—But I hope there will be some provision regarding the inspection of the accidents by competent persons, and that accidents should be examined by Inspectors.

The Honourable Sir RAYMOND WEST:—Yes; they will be examined by Inspectors, and owners of boilers are liable for punishment under the Penal Code if they continue working their boiler after it has been pronounced unfit for work by the Inspectors.

The Honourable Mr. OODHARAM MULCHAND:—There is nothing in this Act to empower the Collector to proceed against the owners in such cases.

The Honourable Sir RAYMOND WEST:—Section 28 amply provides for the punishment of the owners of the boilers, and if there is any doubt on this point, I think we shall be able to discuss it when we come to that section.

The Honourable Mr. OODHARAM MULCHAND:—I am not satisfied.

The Honourable Sir R. WEST:—I think we can insert the words “and certified as fit for use” between the words “examined” and “by” in line 31 of this section, which will meet the honourable member’s wish.

His Excellency the PRESIDENT:—Is the honourable member willing to accept the amendment of the Honourable Sir R. West to insert the words “and certified as fit for use” in line 3 of section 16, sub-section 4, between the words “examined” and “by”?

The Honourable Mr. OODHARAM MULCHAND:—Yes. I withdraw this amendment and also my amendment to insert the words “and Karáchi” after Bombay in line 25.

The amendment proposed by the Honourable Sir R. West was adopted.

The Honourable Mr. Oodharam Mulchand proposed to substitute the word “is” for “are” in line 37 of sub-section 5.

His Excellency the PRESIDENT:—I think it would be preferable to change “person” in line 34 into “persons” and keep “are”. The Honourable Mr. Oodharam withdrew his amendment and that proposed by His Excellency the President was adopted.

The Honourable Mr. OODHARAM MULCHAND moved that in section 18, lines 1 and 2, between the words “periodically” and “at” insert the words “at such places” in lieu of the words “at such intervals” and said that he thought that it was necessary to have the examinations held in more places than one, as it would be very inconvenient for candidates for examination under this Act to come to Bombay from distant places, specially Sind.

The Honourable Sir RAYMOND WEST:—I am prepared to accept the amendment.

His Excellency the PRESIDENT:—Yes; we will accept the amendment; the sentence will now read as “periodically at such places and at, &c.”

The amendment was accepted.

The Honourable Mr. FAZULBHOY VISRAM moved in section 19, line 4, between the words “persons” and “to” to insert the words “one of whom at least to be conversant with the language of the applicant or applicants” and said:—“I regard this amendment as a very important one to the many native candidates who will present themselves for examination under this Act and in whose interest I move this, and I trust the honourable members will agree with me when I propose that one at least of the members of the Examination Commission shall understand the vernacular language of the candidates. In section 34 (c) provision is made for the interpretation of the language of the candidate to the Examiner: practically this is nothing more than what is done at the present time, which I understand has been working very unsatisfactorily. Appointments of Examiners will be in the hands of the Government and not in the hands of irresponsible persons or bodies.

The Honourable Sir RAYMOND WEST said :—I admit that it is desirable that the candidate should have every possible facility in having his language interpreted, but there are many difficulties in adopting the method proposed by the honourable member. This question was discussed before several times. There may be doubts among the Examiners as to the ability of a candidate whose language is known only to one Examiner, the candidate cannot answer them all equally, and does not stand on the same footing as other candidates in the estimation of the Examiners who do not know his language. We cannot for certain get an Examiner to know three or four languages and at the same time be an expert in boilers: for instance an expert in boilers recommended by the Bombay Millowners' Association may not know Sindhi, and so it will be almost impossible to bring Examiners who know Telugu or Malayalam and be at the same time able experts in machinery, nor can an Examiner knowing Hindustáni be able to carry on the examination of the candidates knowing Maráthi, Gujaráti or Sindhi. If Examiners because they know this or that language are put on a board to examine candidates knowing Malayalam, Telugu, or Kánarese, the standard of efficiency will be extremely variable; the candidate in Malayalam may be a better man than the one in Hindustáni or in Maráthi and yet fare worse through the technical incapacity of the Malayalam-speaking examiner. Government invariably chooses the best men available as Examiners and appoints interpreters, so that the standard of examination may be uniform, and the body of Examiners have a better chance of judging the ability of the candidates by an uniform standard by the aid of skilled interpreters, than would be the case if we had different Examiners simply because they knew the language of the candidates. In section 30, provision is made for the interpreters at such examinations; therefore, it will be more practical for the Government to be enabled to appoint experts to conduct these examinations as it wishes, rather than have such obstacles introduced in the Act, and have men whose only qualification may be that of knowing the language of the candidate.

The Honourable Mr. FAZULBHOY VISRAM :—May I ask if there will be a standing Board of Examiners?

The Honourable Sir RAYMOND WEST :—Yes; I think there will be some members who will be members of the standing board, but from time to time Government may vary the members, and it may be desirable to have certain members who on account of their knowing the vernaculars may be interpreters also. But then there is the risk that such candidates as know their language may at the discretion of the Board be left to them for examination. In that case through the proposed amendment of the honourable member the examination could hardly be carried on with efficiency and uniformity of standard.

His Excellency the PRESIDENT :—I do not think that the amendment proposed will be of any practical use at all, because there are so many different languages spoken in this Presidency. I think Kánarese is also a vernacular of this Presidency, and we will have to get a Kánarese Examiner who knows all about machines and is fit to be an Examiner.

The Honourable Mr. FAZULBHOY VISRAM :—I do not think Kánarese candidates will ever appear for the examination under this Act.

The Honourable Mr. DESAI :—Yes, they will; there are many in Bombay from the Kánarese-speaking districts who are learning the mechanical trade.

The Honourable Mr. FAZULBHOY VISRAM :—Who are going to become Engineers?

The Honourable Mr. DESAI :—That I do not know.

His Excellency the PRESIDENT :—In a presidency where so many different languages are spoken we cannot be tied by an Act, and if we make concession in one point the Act will have to be frequently changed to meet similar demands, and we cannot introduce different vernaculars into the Board; and who is to judge the competency of the Examiners in the language of the examinee?

The Honourable Sir RAYMOND WEST :—The honourable member should feel confident that Government will appoint honest interpreters and honest Examiners.

The Honourable Mr. Fazulbhoj Visram then withdrew his amendment.

The Honourable Mr. ODHARAM MULCAND then moved in section 23, sub-section 1, line 15, to add the words "and the same shall be notified in the *Bombay Government Gazette*" after the word "fit". The section will then read :—"If by means of any inquiry conducted under the provisions of this Act or of the rule framed thereunder it shall be established to the satisfaction of the Governor in Council that any engineer

possessing a certificate of competency granted under section 20 or 21 or a certificate of service granted under section 22 is incompetent, or is addicted to drunkenness, or has been guilty of any serious misconduct or negligence, the Governor in Council may cancel such certificate, or suspend the same for such time as he shall deem fit, and the same shall be notified in the *Bombay Government Gazette*”, and said:—I think for the safety of the mill-owners at large it is necessary, whenever the certificate of an engineer has been cancelled or suspended either on account of incompetency or drunkenness, that this should be notified in the *Bombay Government Gazette*; otherwise an engineer would be leaving one district and going into another before an enquiry into his conduct could be completed, and getting himself employed under a new master.

The Honourable Sir RAYMOND WEST:—When we dismiss Government officials we do not brand them by publishing their names in the *Bombay Government Gazette*.

His Excellency the PRESIDENT:—Yes, neither is the name of a ship captain whose certificate is very often suspended, or cancelled for six months or a year, published in the *Government Gazette*.

The Honourable Ráo Bahádúr OODHARAM MULCHAND:—I submit, that it would be sufficient if an endorsement were made on his certificate regarding the cancellation or suspension of the certificate, but in many cases it will be difficult to get the certificate from the engineer.

The Honourable Sir RAYMOND WEST:—The *modus operandi* would be for a Magistrate to get the engineer's certificate as soon as a charge is brought against the engineer, and if the result of the inquiry is unfavourable, then the Government will either suspend or cancel the certificate.

The Honourable Ráo Bahádúr OODHARAM MULCHAND:—But if he fails to produce the certificate?

The Honourable Sir RAYMOND WEST:—If he possesses the certificate he is bound to produce it or pay the penalty for non-production under the Act. But branding him would be too hard a punishment, and I must say, I cannot agree with the honourable member's views, and I dare say millowners before employing an engineer would take good care to enquire regarding his former antecedents and make written enquiry. I don't suppose they will engage him on his verbal application, and so there is no necessity for this amendment.

The Honourable Ráo Bahádúr OODHARAM MULCHAND:—I simply wanted this amendment for the greater safety of employers, because I think the penalty of fine is not sufficient.

His Excellency the PRESIDENT:—The engineers in India, at present, are a small body of men, and can be easily traced to any place, and I don't think any difficulties of this nature have up to date risen owing to the non-publication of such offences in the *Government Gazette*.

The Honourable Mr. FAZULBHOY VISRAM:—Quite so and I dare say his own friends would betray him. Besides no-one will employ him if he fails to produce his certificate.

The Honourable Ráo Bahádúr OODHARAM MULCHAND then withdrew his amendment.

The Honourable Ráo Bahádúr OODHARAM MULCHAND moved that in section 25, line 9, after the word “him” the following words be added: “on payment of such fee as may be fixed by Government” and in line 10 between the words “which” and “shall” the word “duplicate” be inserted.

The Honourable Sir RAYMOND WEST:—The matter is a very small one, but it is not desirable to charge any fee; does the Honourable Member desire to press it?

The Honourable Ráo Bahádúr OODHARAM MULCHAND:—It is a very simple matter and I withdraw my amendments.

The Honourable Ráo Bahádúr OODHARAM MULCHAND then proposed the insertion of section 27 of the original Bill with the exception of sub-section 3. He said:—Section 23 could be avoided by the delinquent, by failing to produce the certificate, and the only punishment for non-production of the certificate is Rs. 500, and I don't think it hard on him to deposit his certificate with the Collector: there seems to me to be no other mode of protecting the interests of the employers.



The Honourable Sir RAYMOND WEST :—The view now presented by the honourable member was the view held when the Bill was drafted, but on consideration it was thought that engineers would think it hard upon them that they should be treated like culprits before they had been convicted of doing any wrong, they would regard it as oppression and resent it, and I think we might therefore adopt a more lenient method of treating them until some charge is made against them. This idea was adopted after a good deal of discussion by the Select Committee, and I hope it will be upheld by the Council; it seems sufficient for practical purposes, and unless it should be found to be insufficient, in which case further legislation would be necessary, it is preferable to adopt the more lenient mode recommended by the Honourable Mr. Wadia who was specially acquainted with this class of people.

The Honourable Ráo Bahádúr OODHARAM MULCHAND :—I think there may be many cases where they might take their certificates to Madras or Calcutta and use them there.

The Honourable Sir RAYMOND WEST :—Yes, that means cheating, and the delinquent can be always tried under the Penal Code for this offence, and I dare say, inquiries can always be made from the last place of the delinquent's employment.

His Excellency the PRESIDENT :—I think it will be wise in the event of an engineer having been ordered to present himself before a Commission of Enquiry, failing to do so, the Government might be consulted in such case, and will notify this in the *Government Gazette* if it thinks necessary. This will be considered hereafter.

The Honourable Sir RAYMOND WEST :—If a man runs away or absconds it would be necessary to publish his name in the *Government Gazette*, but I think this power may be misused. I would propose to consider this section after finishing the amendments.

The Honourable Ráo Bahádúr OODHARAM MULCHAND then agreed to withdraw his amendment on condition that provision as indicated by the Honourable Mover was made in section 23 and the matter stood over.

The Honourable Ráo Bahádúr OODHARAM MULCHAND then referred to his amendment to insert between the words "certificate" and "to" in section 23, sub-section 2, line 19, the words "and if the same has been deposited with the Collector an acknowledgment thereof," and said that he did not wish to press this amendment as the first amendment regarding section 27 had been postponed, but that he wished that power to issue search warrant should be given to enquiry officer in cases of non-production of certificates.

The Honourable Sir RAYMOND WEST thought that there had been already enough of discussion on this point and that there was ample provision made for delinquents, and said they would rather pay the fine when able, than abscond, and make themselves liable to the higher punishment of being sent to jail.

The Honourable Ráo Bahádúr OODHARAM MULCHAND then withdrew his amendment.

The Honourable Mr. JAVERILAL YAJNIK then said that as his amendment to omit the words "direct and immediate" in section 28, clause b, lines 13 and 14, had already been met by the suggestion to introduce the words "management and charge" in lieu of the word "supervision", he would withdraw the amendment.

In section 28, clause (b), line 14, the words "management and charge" were inserted in place of "supervision" and in line 16 the word "and" was substituted for "or" on the motion of the Honourable Sir R. West.

The Honourable Ráo Bahádúr OODHARAM MULCHAND's amendment to section 28, sub-section 1, clause (c), line 20—24, was withdrawn.

The Honourable Ráo Bahádúr OODHARAM MULCHAND moved that in section 29, sub-section 2, line 14, between the words "with" and "imprisonment" the word "simple" be inserted and in line 16 between the words "fine" and "or" be inserted the words "not exceeding Rs. 500."

The Honourable Sir C. PRITCHARD :—The imprisonment ought rather to be rigorous.

The Honourable Sir RAYMOND WEST :—Does the honourable member wish to press the amendment? There is a great objection to long terms of simple imprisonment, and I can assure the honourable member they are extremely pernicious. The section deals with a very serious offence, and it ought to be left to the discretion of the Court whether it should be simple or rigorous imprisonment, as it is in so many other instances. Placing fraudulent marks on boilers is obviously a very bad offence, endangering as it

does the properties and lives of work-people, and, as the Honourable Sir C. Pritchard suggested, the amendment, if any, ought to be rather too "rigorous" than "simple".

The Honourable Ráo Bahádúr OODHARAM MULCHAND :—I don't think it is right to leave it in this fashion to the Court to say what it should be.

The Honourable Sir RAYMOND WEST said :—Supposing we have the case of a wealthy Millowner who has caused a number of people to be blown to pieces, it cannot be said that five hundred rupees fine would be a sufficient punishment. A fine is not to be limited but moderate and not excessive; that is an established constitutional doctrine of the English law adopted in our Indian Penal Code. What is excessive in the case of one man may be absurdly low in the case of another. It should be left to the discretion of the Court, subject to the supervision of course of a higher Court; so there is no fear of an improper penalty being awarded and carried out.

The amendments were put to the vote and lost.

The Honourable Ráo Bahádúr OODHARAM MULCHAND withdrew his amendment to Section 30.

The Honourable Sir RAYMOND WEST moved in section 34, clause (c), after the word "regulating" in line 14 to insert the following words, "the submission of appeals under section 11, the reference and cognisance of matters under section 13, the procedure to be followed in the hearing of appeals and inquiry into the matters aforesaid," and in the same section to add the following clause "(f), generally for giving effect to the provisions of this Act."

Both these amendments were adopted.

The Honourable Sir RAYMOND WEST moved to omit section 36, and in lieu thereof to substitute the following:

- (1) The Governor in Council may, from time to time by notification,
  - (a) apply so much of this Act as relates to the taking out and grant of certificates for and the inspection of, boilers to prime movers generally, or to prime movers of, any particular class in any place or district in which this Act is at the time in force, and
  - (b) cancel any such notification.
- (2) During such period as any notification under the above clause (a) is in force in any place or district, the provisions of this Act thereby made applicable to prime movers shall be read and understood in such place or district as if the word "boiler" included the words "prime mover" wherever used therein.

He said: the amendment is substantially to substitute for section 36, section 36 of the original draft, which is section 33 of Act III of 1887, after the omission of superfluous words. The position of the mover of the Bill in this case is a somewhat singular one, having arisen from circumstances which could not be anticipated when the draft Bill was originally placed before the Council and sent to the Select Committee. The Select Committee reported, recommending the Bill in the shape in which it now stands for adoption by Council, but immediately afterwards and on the second reading of the Bill it was announced that two non-official members of the Committee to which the Bill was referred, had since the adoption of the report changed their minds, and speeches have been made, and letters written to Government pressing on the Government and on me in particular as member in charge of the Bill, that the arguments used for the rejection of section 36 of the original Bill, were perfectly valid, but that the arguments used for the substitution of section 36 for the section now in the draft were utterly invalid; so the result would be this, that the members of the Committee who agreed to compromise would take all the advantage of having the old section 36 ejected from the Bill without submitting to their part of the compromise by having the new one inserted. The arguments were said to be so strong that Government must submit to them. It will be found in my speech on the second reading of the Bill that, the view taken was that the one part was to be taken as an equivalent for the other. It was by no means the opinion of the Government, and certainly not of the members of Government who were on the Select Committee, that the form now before the Council was superior to the form originally given to the provisions of the Bill when first before the Council. We had really preferred the original form. This was the view of the Government, and I explained it at the second reading published on page 43 of the *Government*

*Gazette.* It was only in a spirit of conciliation to meet the wishes of the non-official members who represented the views of the Millowners, that the official members agreed to accept the compromise in this section. It was done entirely in a spirit of compromise. But now as the very basis of compromise is withdrawn, we regard the matter on its merits, and Government embodies its opinion in section 36 as it originally stood in the draft placed before the Council. What the Government wanted was that by the introduction of this Act the section affecting prime movers should only be extended to them as necessity arose, and not otherwise. Ordinarily the Act would not affect prime movers. The arguments in favour of the draft, section 36 as it stands in the original Bill, are much stronger than those for the substituted form. From the Honourable Mr. Forrest's letter addressed to His Excellency, which I am allowed to refer to, I can see from the extracts that there are occasions when necessity may arise for the application of this Act to prime movers. Mr. Carroll, Superintendent, Locomotive Department, B. B. & C. I. Railway, a very competent man in his line, it seems was deputed to examine the circumstances attending the bursting of a "steam chest" at Broach, and in reference to that, after careful study of the circumstances he said that Act III of 1887 should in cases of necessity be extended to owners of steam chests in order to instil into them the sense of duty towards those employed under them. This is one instance of what occurred only recently, when it was thought desirable to make the existing Act applicable to steam chests, and if we look back over the reports of the Inspectors since 1887, we find many instances which justify our asking for the retention of this power which was already given to us by Act III of 1887. It is true if we look at the reports it will be found that since the introduction of the system of inspection, there is ample evidence to show that inspection gradually produced a better state of affairs, and accidents are of less frequency now-a-days. But at the same time I must remind my honourable colleagues that neglect to examine prime movers may always result in some accident. I may point out that all the arguments which can be said to have any force in them now had also the same force in 1837, and yet the Act of 1887 was passed without one single dissenting voice and this very Act gave Government the discretionary power of extending the Act to prime movers. The then Chairman of the Chamber of Commerce, Sir Forbes Adam, a man of remarkable ability and distinction, joined in passing this Act. Now what I want to impress on my honourable colleagues is this, that when an Act is passed and exists as law, surely the onus lies with those who wish to change it, to justify the change. If they say there is no necessity because the Act has not been applied, the answer is that if this power is withdrawn, then in future a necessity may arise in the case of an owner who from motives of economy, in some remote place in the mofussil, uses inferior machinery and thus endangers the lives of his workmen. The experts who were examined on former occasion gave strong evidence that such necessity would arise, and that there should be a law to provide for it. The Head Engineer of the Government Dockyard, an independent gentleman, together with several experts gave their evidence before the Committee to the effect that such provision should exist. If the Government had during the last three years of the operation of this discretionary clause abused its power, then there would be some grounds for opposition, but as long as no such plea has been brought forward, there is nothing to justify the present opposition. Government is not asking for any new power, but simply wishes to retain the power it already possesses. As a law it is perfectly clear it should exist and that occasion may arise for its application to prime movers. Though such cases may be extremely rare and exceptional, still Government should have a reserved power to meet such cases. I therefore move that my amendment be placed as section 36 in the Bill in lieu of the section 36 now in italics in the draft.

The Honourable Mr. FORREST:—I wish to express my acknowledgments, and the acknowledgments of those who will be affected by this Bill, to Your Excellency's Government for the consideration shown to us in consenting to withdraw section 37. I always felt that Government would not hesitate to do so, when they learnt that by giving the Inspector leave to inspect prime movers at any time and without any real responsibility for the expression of his opinion, this section would press more hardly upon the users of steam power, than the old section 36. We are now in exactly the same position as we were before the Select Committee sat. I did hope that the arguments used, when the Committee was sitting, would have been sufficient to prevent the old section 36 being brought up again, but though I believe they influenced the minds of four out of five of the Committee, they have had no effect on the honourable member in charge of the Bill. I am perfectly willing to accept the honourable member's statement, that the onus of proving that