

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.

(To be translated into Maráthi, Gujaráti, Kánarese and Sindhi, and the translations to be published in the "Bombay Government Gazette." The Sindhi translation to be published in the Sind Official Gazette. The dates of publication to be reported.)

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 15 of the Rules for the conduct of Business at Meetings of the Council of His Excellency the Governor of Bombay for making Laws and Regulations:—

Bill No. 3 of 1891.

A Bill to prohibit the practice of Inoculation and to make the Vaccination of children in certain portions of the Bombay Presidency compulsory.

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A Bill to prohibit the practice of Inoculation and to make the Vaccination of children in certain portions of the Bombay Presidency compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation and to make compulsory the vaccination of children in certain portions of the presidency of Bombay, and to remove doubts as to the legality of compulsory vaccination in the case of convicts and others confined in criminal jails, reformatories and lunatic asylums in the said presidency: It is enacted as follows:—

Preliminary.

1. This Act may be cited as the Bombay District Vaccination Act, 1891.

2. (1) Section 33 extends to the whole of the presidency of Bombay, and shall come into force at once.

(2) The rest of the Act:

(a) extends to the whole of the presidency of Bombay, except

(i) the city of Bombay,

(ii) the town of Karáchi,

(iii) the scheduled districts other than the province of Sind; and

(b) shall come into force in each local area within its extent on such day and during such period as the Governor in Council by notification in the *Bombay Government Gazette*, declaring such area to be a vaccination area, may direct.

Every such notification shall specify the local area to which it relates

- (a) by name, if such area is a district, taluka or municipal district, or
 (b) by defining its limits in any other case.

3. The Governor in Council may at any time by notification withdraw the Act from operation, or, for such period as he deems fit, suspend its operation, in any local area in which it may have been brought into force under section 2, sub-section (2).

4. In this Act, unless there be something repugnant in the subject or context,

- (a) "parent" means, in the case of a legitimate child, the father or the mother and, in the case of an illegitimate child, the mother only;
- (b) "guardian" means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorised in that behalf;
- (c) "public vaccinator" means any vaccinator appointed under this Act, and includes any deputy duly authorised to act for such public vaccinator;
- (d) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act;
- (e) "unprotected child" means a child who has not been protected from small-pox by having been successfully vaccinated, or who has not been certified under section 12 to have already had small-pox or to be insusceptible of vaccination;

(f) "animal lymph" means vaccine taken from the calf of a cow or buffalo;

(g) "district" means a territorial division constituting a district for the purposes of the Code of Criminal Procedure, 1882; Act X of 1882.

(h) "municipal district" means a municipal district, as defined in section 4 (2) of the Bombay District Municipal Act Amendment Act, 1884; Bo. Act II of 1884.

(i) "vaccination area" means a local area in which the Governor in Council has by notification declared this Act to be in force;

(j) "vaccination circle" or "circle" means one of the parts into which a vaccination area has under this Act been sub-divided for the performance of vaccination; Act XIII of 1880, s. 2 (c).

(k) "registrar" means any officer or other person whose duty it is,

(a) under any law for the time being in force other than the Births, Deaths and Marriages Registration Act, 1886, or Act VI of 1886.

(b) under the rules or bye-laws of any municipality,

to register births and deaths, but nothing in this Act respecting registrars shall be deemed to apply to any registrar appointed under the Births, Deaths and Marriages Registration Act, 1886, as such registrar. Act VI of 1886.

Establishment.

5. (1) Subject to such rules and orders as may be made by the Government, every vaccination area shall, with the concurrence of the Commissioner, be divided by the Sanitary Commissioner for the presidency of Bombay, or by such other officer as Government directs, into such and so many vaccination circles for the performance of vaccination, as he shall from time to time deem fit. Bo. Act I of 1877, s. 3.

(2) The officer so dividing a vaccination area shall appoint a public vaccinator for each vaccination circle thereof, and shall, with the concurrence of the Commissioner, appoint such places in each such circle, as he shall from time to time deem fit, to be stations for the performance of vaccination. Such stations shall be called public vaccine stations.

Appointment of public vaccinators and vaccine stations.

(3) Every public vaccinator shall be removable from office by the Sanitary Commissioner or other officer aforesaid.

Public vaccinators how removable.

(4) The limits of the vaccination circles made, and the positions of the public vaccine stations fixed, under sub-sections (1) and (2) and the days and hours of the public vaccinator's attendance at each station shall be published from time to time in such manner as shall be directed in rules to be framed under section 32.

Limits of circles and hours of attendance how to be notified.

6. Every public vaccinator, unless specially permitted by the Sanitary Commissioner or other officer aforesaid to reside elsewhere, shall reside within the circle for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the vaccination circle of * * ", to be posted up in English and in the vernacular of the district in some conspicuous place on or near the outer door of his dwelling-house, and of every public vaccine station in his circle.

7. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Sanitary Commissioner or other officer aforesaid.

(1) In each vaccination area a Superintendent of Vaccination shall be appointed by Government, and subject to the orders of the Sanitary Commissioner or other officer aforesaid, shall have a general control over all the proceedings of the public vaccinators within that area, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

(2). Each Superintendent shall have, if necessary, one or more assistants as Government may from time to time direct.

Vaccination.

(1). In the case of every child such as is mentioned in sub-section (2), it shall be the duty of the parent and guardian thereof, within the

Duty of parent or guardian of children within limits of vaccination area.

period prescribed in respect thereof in the said sub-section, to take it or cause it to be taken to a public vaccinator to be vaccinated, or to cause it to be vaccinated by some medical practitioner.

(2). The duty imposed by sub-section (1) shall be performed in the undermentioned cases within the periods following, that is to say—

in the case of :

(a) a child born within the limits of a vaccination area, —within twelve months after its birth ;

(b) an unprotected child brought to reside, whether temporarily or permanently, within the said limits,

(i) if the child is less than three months old—within twelve months after its birth ;

(ii) if the child is more than three months but less than fourteen years old—within three months of its being brought within the said limits ;

an unprotected child living within such limits at the date when this Act comes into force therein.

(iii) if the child at such date is more than six months but less than fourteen years old—within six months from the date of the Act coming into force in such area ;

(iv) if the child at such date is less than six months old—within twelve months from the date of its birth.

(3). The public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

10. (1). At an appointed hour upon the same day in the following week after vaccination shall have been performed by a

Inspection.

Bo. Act I of 1877, s. 8. and Bo. Act III of 1882, s. 2.

Bo. Act I of 1877, s. 4.

The public vaccinator to live within his circle.

Bo. Act I of 1877, s. 5.

Qualifications of public vaccinator.

Bo. Act I of 1877, s. 6.

Superintendent of Vaccination.

Bo. Act IV of 1877, s. 6.

Assistant Superintendents.

Bo. Act I of 1877, s. 7.

public vaccinator or a medical practitioner, or on any earlier or later day, if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the public vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation.

(2). In the event of the vaccination being unsuccessful, such Re-vaccination. parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

Bo. Act I of 1877, s. 9. 11. (1). If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand, according to the form of schedule A, or to the like effect, that the child is then in a state unfit for vaccination.

(2). The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of schedule C, according to the provisions of section 13, if warranted by the result.

(3). At or before the end of each successive period the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

Bo. Act I of 1877, s. 10. 12. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of schedule B, or

to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

13. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of schedule C, or to the like effect, certifying that the said child has been successfully vaccinated. Bo. Act I of 1877, s. 11.

14. (1). Except as is in sub-section (2) otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal lymph. Bo. Act I of 1877, s. 12.

(2). It shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal lymph is not procurable without dangerous delay, to direct, by notification in the *Bombay Government Gazette*:

(a) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being;

(Provided that in any case wherein the parents or guardians may give notice of an intention to have vaccination effectually performed, a reasonable time shall be allowed for such purpose);

(b) that the public vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 10 for inspection, may, if he see fit, take from such child lymph for the performance of other vaccinations.

15. (1). No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine station. Bo. Act I of 1877, s. 13.

(2). But it shall be lawful for a public vaccinator to accept, for vaccinating a child, by request of the parent or guardian, else-

where than at a public vaccine station, a fee not exceeding such maximum as the Governor in Council may, by rule or order in this behalf, prescribe.

Registration.

Bo. Act IV of 1877, s. 14.

16. On the registration of the birth of any child under the provisions of the by-laws of any municipality, or of any other law for the time being in force, the registrar shall deliver to the person giving information of such birth a printed notice in the form of schedule D, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Bo. Act I of 1877, s. 15.

17. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of schedules A, B and C shall, within twenty-one days after giving the same, transmit a duplicate thereof to the registrar of births of the municipal district or place where the birth of the child on whose account such certificate was given has been registered, or if that be not known to him, or if the child was not born within the limits of any municipal district, or his birth has not been registered, then to the registrar of the municipal district or place within which the child was vaccinated, or presented for vaccination.

Bo. Act I of 1877, s. 16.

18. Every registrar of births shall keep a book, in such form as may from time to time be prescribed under section 30, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

Bo. Act IV of 1879, s. 17.

19. He shall also prepare and keep a duplicate of any register of births required to be kept by him under the provisions of the by-laws of the municipality of which he is an officer, or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed under section 30, in which he shall record the date of every duplicate certificate, in the form of schedule B or Schedule C, received by him concerning any child whose birth he has registered, and make an entry to the

effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

20. He shall also keep a register of postponed vaccinations in the form of schedule E, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

21. Every registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed under section 30, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

Prosecutions and Offences.

22. Whoever:

(a) produces, or attempts to produce in any person, by inoculation with variolous matter or by wilful exposure to variolous matter or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person; or

(b) being above the age of fourteen years and having been inoculated with small-pox in a place in which this Act is not for the time being in force, shall afterwards enter a vaccination area before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion; or

(c) having the charge, custody or control of any person so inoculated, shall, within such period or without such certificate as aforesaid, knowingly bring such person into, or permit such person to enter, a vaccination area; shall be punished with imprisonment or a term which may extend to three months or

Bo. Act I of 1877, s. 18.

Bo. Act I of 1877, s. 19.

Bo. Act I of 1877, s. 20.

Bo. Act IV of 1879, s. 22.

with fine which may extend to two hundred rupees, or with both.

Bo. Act I of 1877, s. 21.

23. (1) If a Superintendent of Vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within a vaccination area, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time.

(2) If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination the person upon whom such order shall have been made, shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine, which may extend to fifty rupees:

(3) Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Bo. Act I of 1877, s. 22.

24. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Bo. Act I of 1877, s. 23.

25. Whoever, in contravention of this Act,

(a) neglects, without reasonable excuse, to take, or cause a child to be taken to be vaccinated, or after vaccination to be inspected; or

(b) at any time during the period for which any notification made under section 14 is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated; or

(c) neglects to fill up, sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the registrar of births;

shall be punished for each such offence with fine which may extend to fifty rupees.

26. Whoever wilfully signs or makes or procures the signing or making of, a false certificate or duplicate certificate

Penalty for making or signing false certificate.

under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Bo. Act I of 1877, s. 24.

27. If any public vaccinator accepts, or obtains, or agrees to accept, or attempts to obtain from any person any fee, or remuneration, contrary to the provisions of section 15, he shall be deemed to have committed an offence punishable under section 161 of the Indian Penal Code.

Penalty for accepting illegal fee or remuneration.

28. All offences under this Act shall be cognizable by a Magistrate of the first or second class, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or a Superintendent of Vaccination.

Bo. Act I of 1877, s. 25.

Act XLV of 1860.

Bo. Act I of 1877, s. 26.

29. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from a registrar, or any other officer, of the requirements of the law in this respect; but if the defendant produce any certificate under section 12 or 13 or the duplicate of the register of births or the register of postponed vaccinations kept by any registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of schedule A, when the time specified

Prosecution for neglect.

Bo. Act I of 1877, s. 27.

therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Supplemental.

Bo. Act I of
1877, s. 29.

30. The Sanitary Commissioner or such other officer as Government directs shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the registrars such books and forms as are required by them under the provisions of this Act.

Bo. Act IV of
1879, s. 30.

31. It shall be the duty of every registrar appointed under the by-laws of any municipality to show in any annual general abstract of births and deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year.

Bo. Act IV of
1879, s. 31.

32. The Sanitary Commissioner, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time make rules or issue orders consistent with this Act:

- (a) providing for the appointment of deputies of public vaccinators when necessary;
- (b) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 7;
- (c) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette*.

33. (1). Subject to such rules as the Inspector General of Prisons with the sanction of Government may make in this behalf, and to such exemptions as Government may from time to time, by either a general or a special order, authorize, the operation of vaccination shall be performed on every person confined in any of the cases hereinafter mentioned, whatever the age or sex of such person may be, and whether such person consent to undergo such operation or not; that is to say in the case of every person in respect of whom:

- (a) imprisonment for more than one month or transportation has been awarded as part of the substantive sentence of a criminal court, or
- (b) a criminal court has directed imprisonment, in default of payment of fine, for a term which, if the fine be not sooner paid, will exceed one month, or
- (c) a court has directed imprisonment for failure to give security for good behaviour for a term which, if security be not sooner given, will exceed one month, or
- (d) an order has been passed by Government under either section 466 or section 471 of the Criminal Procedure Code, 1882, for his confinement as a lunatic.

Act X of
1882.

(2) Every operation heretofore performed under any rules or orders made or approved by the Governor in Council, or by the Inspector General of Prisons, on any person confined or detained in a gaol, shall be deemed to have been lawfully performed and with due warrant.

SCHEDULE A.

(See Section 11.)

I, the undersigned, hereby certify that, in my opinion, * * *, the child of * * *, resident at * *, in the vaccination area of * *, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this * * day of * * 18 * *.

(Signature of Medical Practitioner
or Public Vaccinator.)

SCHEDULE B. *(Form of Certificate where child is insusceptible of small-pox.)*
 See Section 12.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated ***, the child of ***, residing at ***, in the vaccination area of ***, and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this ** day of ** 18 **.

(Signature of Medical Practitioner
or Public Vaccinator.)

(Form of Certificate where child has already had small-pox.)

I, the undersigned, hereby certify that I have examined ***, the child of ***, residing at ***, in the vaccination area of ***, and that I am of opinion that the said child has already had small-pox.

Dated this ** day of ** 18 **.

(Signature of Medical Practitioner
or Public Vaccinator.)

SCHEDULE C.

(See Section 13.)

I, the undersigned, hereby certify that ***, the child of ***, age **, resident at ***, in the vaccination area of ***, has been successfully vaccinated by me.

Dated this ** day of ** 18 **.

(Signature of Medical Practitioner
or Public Vaccinator.)

SCHEDULE D.

(See Section 16.)

To
 [Here insert the name of the parent, guardian or other person who gives information of the child's birth.]

Take notice that the child of (here enter the name of the father), whose birth has this day been registered, must be vaccinated under the provisions of the Bombay District Vaccination Act, 1891, within twelve months from the date of its birth, under a penalty of fifty rupees.

The public vaccine station nearest to the house in which the child was born is at No. **.

The days and hours for vaccination at that station are as follows:—

(Here insert the days and hours when the public vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the vaccination area on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the * * of * * 18 * * Registrar of Births.

SCHEDULE E.

(See Section 20.)

Register of Postponed Vaccinations for the Vaccination Area of

Consecutive Number.	Name of Child.	BIRTH.		Date of Certificate of Postponement.	Signature of Registrar.
		Year.	Number of entry in Register.		

STATEMENT OF OBJECTS AND REASONS.

Vaccination of children is at present compulsory only in the city of Bombay and the town of Karáchi.

2. The extension of the compulsory system to other areas appears, in view of recent outbreaks of small-pox, and especially of those in Sind, a pressing necessity.

3. The voluntary system is ineffectual, but careful and widespread enquiry has shown that its failure is due rather to indifference, indolence or ignorance, than to any rooted objection to vaccination among the various populations of the presidency.

4. The Acts * which render vaccination compulsory in the city of Bombay and the town of Karáchi have worked well, and ten years' experience is in their favour. They have, therefore, been closely followed in the present Bill, by which it is proposed to empower the Governor in Council to extend the compulsory system to any local area in the presidency.

5. Provision is also made for power to withdraw or suspend the Act from operation in any area to which it may have been extended.

6. By section 33 of the Bill it is proposed to remove all doubt as to the legality of compulsory vaccination in the case of convicts and persons detained for long periods in Gaols, Reformatories and Lunatic Asylums. Government do not deem it necessary or desirable to enforce it on under-trial prisoners.

(Signed) C. B. PRITCHARD.

14th October 1891.

By order of His Excellency the Right Honourable the Governor in Council,

A. C. LOGAN,

Secretary to the Council of the Governor of Bombay for making Laws and Regulations.

Bombay, 3rd November 1891.

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, which was adjourned on Saturday the 8th August 1891, re-assembled on Monday the 10th, at 11 A.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 RAYMOND WEST, K.C.I.E.

The Honourable Sir C. B. PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL,

The Honourable RAO Bahádúr MAHADEO GOVIND RANADE, M.A., LL.B., C.I.E.

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

The Honourable Mr. L. R. W. FORREST.

The Honourable RAO Bahádúr OODHARAM MULCHAND.

The Honourable Mr. LINGAPA JAYAPA DESAI.

The Honourable Mr. FAZULBOY VISRAM.

The Honourable Mr. J. G. MOORE.

THE BOMBAY BOILER INSPECTION BILL (No. 1 OF 1891).

The Honourable Mr. MOORE said:—In the course of his remarks the Honourable Mr. Forrest observed, that, as when the Act of 1887 was passed, Government made considerable concessions to the millowners, his predecessor Sir Frank Forbes Adam consented to allow Government to exercise a discretionary power in regard to the inspection of prime movers, and yet, now, before four years have elapsed, the honourable member wishes to withdraw that power, chiefly on the ground that Government have not been called upon to make use of it. Now, I would ask honourable members whether this is any sufficient justification for their proposal? The honourable member, and those with him, think that if Government were ever called upon to interfere as regards the inspection of prime movers, it would then, but not till then, be time to legislate on the subject. But I would ask whether this would not be tantamount to locking the stable door after the horse is stolen? Because Government have, hitherto, had no necessity for interference, is it right to conclude that such a contingency will never occur? And if it did, how would Government be able to meet it if they are deprived of the power which they possess? In my opinion it is far better to leave the provision as it is, than to have to legislate at the last moment. I have attentively listened to the arguments of my honourable friends, but I must confess that I am quite at a loss to understand what possible objection the Millowners' Association can have to allowing the Government to retain the discretionary power which they at present possess. On these grounds, I am of opinion that the amendment, as proposed by the Honourable Sir Raymond West, should be accepted by the Council.

His Excellency the COMMANDER-IN-CHIEF:—I think perhaps there is some misapprehension that Government wish to misuse the power at some future time.

The Honourable Mr. FAZULBOY VISRAM said:—With regard to this amendment I beg leave to observe that in discussing it I discard from my mind the circumstance of its being a sort of re-enactment. No doubt section 33 was dropped in the Select Committee in a

spirit of conciliation and no doubt also that so far it has not proved to be a hardship, but I am inclined to treat it as a new measure and deal with it as such. Practically it will be a kind of prospective legislation, and the fact of its having not been at all required for the past five years that it has existed is an argument more against than for its retention. Of course, if it is thought that a necessity may arise in the future for the inspection of prime-movers, it can surely be met by legislation at the time, but past experience does not warrant such an apprehension. The amendment, it is to be noted, proposes to give power to the Government to bring prime-movers in the same category as boilers whenever they think fit to do so, but that is no answer to the objection that there is no necessity whatsoever for legislation on the subject. I believe that honourable members are pretty equally divided on it; so it would not, I humbly think, be satisfactory that the objectionable provision should be carried by a bare majority or by the vote of Your Excellency; especially as those, or some of those who I believe are opposed to this section, are men who have actual experience in the matter of boilers and prime-movers. It is therefore due to the Council that those who are for retaining section 36 in one shape or another—and this amendment practically amounts to nothing less than that—should prove that a case has been clearly made out for legislation on the subject. To my mind the Honourable Sir Raymond West's amendment clearly shows that no such case has been made out, but that a necessity may possibly arise in future to meet which Government should have power. If it is sought to provide against possible danger in the future; it cannot be said that the apprehension of such danger is based on any facts which have occurred during the long existence of mills and other factories which have been using boilers and prime-movers in Bombay. Prospective legislation is, as honourable members know, to be deprecated, especially if it is likely to lead to vexatious interference with that enterprising body of merchants to whom the prosperity of our great mill industry is entirely due. Under these circumstances I consider it, my Lord, my duty to vote against the proposed amendment.

The Honourable Mr. JAVERILAL UMASHANKAR YAJNIK said :—Your Excellency, at the last meeting of the Council, the honourable mover of this Bill, it will be remembered, remarked, when moving the insertion once more of section 36, that the opinion of Government in reviving the section was based upon its merits. Bearing this observation in mind, I venture to submit a few considerations to the Council based chiefly upon the merits of this amendment. And I desire, in the first place, to remind honourable members that in dealing with a Bill of this kind we are dealing with a highly technical subject. Your Excellency was pleased to remark on the last occasion, and remark rightly, I think, that with the exception of the Honourable Mr. Wadia, now in England, we had none among us here competent enough to speak with the voice and authority of an expert. It seems to me, therefore, that our decision as to whether this clause should remain part of the Bill must depend upon the decision on the technical point as to whether in the interests of safety, this discretionary examination of prime movers is either necessary or desirable. We have to appeal, in the first place, to past experience on this subject, as indicated in the information which Government have at their command; and, secondly, to the view which practical and professional men or experts take of it. Now, it was the information which Government had at their disposal in regard to the past administration of the Act, which guided the Select Committee in framing the first part of their report which bore on this section. The honourable mover told us at the last meeting that that report was the result of a compromise. I cannot say that it was not thought so. But to that I say, can an illogical compromise hold water? You first give up optional inspection, but in the same breath you introduce compulsory inspection. Can compulsory inspection be considered a logical sequence of the abandonment of optional inspection? Is this logically consistent? I doubt if it is possible to call that a compromise which involves two contradictory proposals. When it was seen that the obligations regarding the inspection of prime movers arising out of the adoption of such a compromise were clearly calculated to hamper trade and industry, and that even in the interests of safety such inspection was not at all necessary, it was evident that the adoption of such a compromise became wholly unnecessary. The real point is this, Is Government inspection of prime movers in the interests of public safety necessary or desirable? The Select Committee decided that optional Government inspection was not necessary or desirable. On this point at all events there was no difference of opinion. The Select Committee recorded their reasons for this decision. One of the reasons was

that in the past administration of the Act of 1873, great difficulties arose in respect of applying the Act to prime movers. It was on this account, doubtless, that direct examination of prime movers by inspection was dispensed with in the Act of 1887. Government, however, duly reserved an optional power of inspection by notification in the Act of 1887. To this, even a gentleman of Sir Forbes Adam's calibre could not object. He perhaps thought that in course of time this would be done away with, and so, I believe, he consented. But since 1887 Government had discovered that no occasion had arisen in any single instance to apply even this discretionary power. Such being the tendency of legislation on this subject one would naturally expect Government to give up this power, and so it was unanimously given up in the Select Committee. The Committee felt and felt very properly that if at any future time any occasions did arise for the exercise even of this optional power, it was quite competent to Government to provide for them by future legislation. But while thus dispensing with optional inspection, the Committee proceeded to provide for direct inspection by Government Inspectors. Such a provision as this was, however, contrary to the principle affirmed by Sir Maxwell Melville's Committee in October 1886, on consideration of the report of the Boiler Commission, namely, that on the whole it had been thought advisable to exempt prime movers from inspection. In the face of such a clear principle laid down by the former Committee I considered it my duty not to adhere to, but to dissent from, the report of the Select Committee which virtually proposed that which was thought undesirable on behalf of the Government itself in 1886. These facts and reasons hold good even now when the so-called compromise is rejected. They show that the decision to dispense with section 36 was founded on the merits of the case, but the decision to introduce a provision for direct inspection of prime movers was against the decision of the Select Committee of 1886. The fact that nowhere in England, or on the Continent of Europe, or in any part of the world, has legislation of this character been had recourse to is most noteworthy. The Millowners' Association suggests that Government would be pleased to consult the best professional opinion on the subject or to permit the Association to consult such expert opinion and submit it to Government, and they feel sure that their view will be upheld by such professional opinion, and no grounds will be found for classing prime movers as more dangerous than other machinery, developing great but controllable power. But what the millowners have not done, and what the Government, so far as we know, have not done in the way of actually consulting expert opinion and placing it before Government has been done by my honourable friend Mr. Forrest. He has, I think, done signal service to the public as well as to the Government. He has been at considerable pains to collect what I regard as the best available body of professional opinion in Bombay on the point, and he has placed it at the service of Government with a letter on the subject. This letter was marked "confidential," but, as the honourable mover of the Bill said on the last occasion, there is nothing of a confidential or secret nature about these opinions.

The Honourable Sir RAYMOND WEST :—I expressly asked Mr. Forrest's permission when I referred to it.

The Honourable Mr. Javerilal Umiashankar Yajnik continuing said :—These opinions bear so vitally on the point at issue that I would crave the permission of Your Excellency to quote them here for the information of the Council. I feel sure that when the Council hears these expert opinions, they will have no hesitation in making up their minds. They are the opinions of men eminent in their profession and who are in no way interested in this Bill one way or the other. Their impartial opinions must, therefore, carry considerable weight with Government and the public generally. The question referred to these experts was, whether on the grounds of public safety an inspection of prime movers was necessary or desirable. The first opinion is that of Mr. R. Sargent, Assistant Locomotive Superintendent, G. I. P. Railway Workshops, Parel. He remarks :—

"I do not think that, on the grounds of public safety, an inspection of prime movers is a necessity. Before such inspection could be made, it would be necessary thoroughly to strip the engine, so that down to the very smallest details, every wearing surface and part under strain could be examined. This would entail such heavy work as taking down connecting and eccentric rods, straps and sheaves, removing cylinder and steam chest covers, taking out valves and pistons and lifting the driving axle and fly-sheet to expose the main bearings. To do all this and to couple up again would necessitate the engine being stopped for two or three days at least in many cases and

throw the owner to considerable and, I think, unnecessary expense. A locomotive engine is certainly more exposed to risk of failure than the stationary engine, on account of the constant jarring it receives during the journey, the varying power, it has to exert and the very close proximity of the boiler to the moving parts. As a matter of fact, the locomotive does occasionally break down, and on large lines there is seldom a day without some form of failure; but it must be admitted that the cases in which any injury is sustained by passengers or the engine staff themselves are so exceedingly rare that they may be neglected altogether practically, and I think the same may be said as regards stationary engines. The bursting of a fly wheel is, of course, under any circumstances, a serious accident, but one which is now-a-days of very rare occurrence owing to improved methods of construction and the use of efficient governors. This class of failure would not be any the less likely to occur, because the fly wheel has been inspected by the Government Inspector. There are several reasons rendering the inspection of boilers necessary that do not apply to prime movers. In the case of boilers the deteriorating forces which cause grooving and fitting of the plates cannot be estimated by the Engineer-in-charge, who can form little or no idea as to the real state of the boiler until it has been stopped and the scale cleared away for inspection. In the case of engines it is different. The rate of wear of moving parts is as a rule well known to the Engineer-in-charge, and it makes itself manifest by a knocking noise as the wear increases. No inspection will guard against breakdowns arising from neglect of lubrication or repairs that are required, and this, I think, shows that the best safeguard is to employ thoroughly good engineers. Such men from daily examination of their engines acquire a very thorough knowledge of all the details and defects, if any, and are able to detect almost instinctively when anything is amiss and take measures accordingly."

Then follow the opinions of gentlemen who are Government servants, but I shall not read them in deference to Your Excellency's desire that I should not do so. Turning to non-official expert opinion, again, this is what Mr. Trevethick, the Locomotive Superintendent of the G. I. P. Railway, writes:—

"I do not think that public safety would be secured by the examination of engines by Government Inspectors. An engine is placed under the charge of an engine-man whose special duty is to watch the engine while at work, and he thus becomes very familiar with the working of this special engine, and detects quickly any variation in its movements, and is warned of probable failure in time to stop the engine. Granted that the man in charge is well selected, I do not see what more can be done. It is the owner of the engine who suffers by any failure of the machinery and he therefore takes care to place his engine in a building to which the public are not admitted. A fly wheel is carefully examined when first fitted to an engine. If there are no flaws then apparent, I doubt that subsequent examination is likely to disclose them. It is not usual for an engine fly wheel to break. It sometimes happens when the load is suddenly taken off the engine by the failure of the main driving gear, but the inspection of the wheel will not guard against this."

I now come to the opinion of Mr. Carroll, Locomotive Superintendent of the B. B. & C. I. Railway Workshops and President of the Boiler Commission. He observes:—

"I am against Government taking power to inspect prime movers; there is very rarely any danger to life from the condition of land engines, though there may at sea. The object of Government being to protect the lives of the employes in factories as well as the public, little or nothing of this will be obtained by interference with prime movers. On the other hand, it is the duty of Government not to hamper trade and industry, but they will give the power to do so very materially if they order inspection of prime movers.

"By such inspection I mean, of course, that the prime mover would be stopped working; that the Inspector would examine the main shaft, drums, cranks, and the bearings for the same; would, if he wished, examine the cylinders and steam chests internally, and see the pistons, thus involving the taking of the cylinders and steam chest covers, and there are many other matters which I might mention. Such inspection, or even part of the above, would involve opening up parts of the engine, the moving of heavy weights, the breaking open of steam joints, and there would be

the usual risk of parts not being properly adjusted, when put back; it would cause serious inconvenience and labour, for, as I said before, little or no purpose.

“Indeed, it is not overstating the case to say that taking the average of chances in such operations, there would be more casualties owing to the removal of heavy weights and other work in the examination of prime movers, than would ever be saved by such examination; that is the point on which the matter turns; there may, of course be no more interference in the examination of a prime mover than of a boiler, but a great deal is gained by the latter, and very little by the former. I will mention, in conclusion, a case which occurred in 1890, in which I gave an opinion as President of the Boiler Commission, which some people might wrongly construe into my being in favour of the inspection of prime movers; but it is nothing of the kind. The power existed, and there was no reason why it should not be used in that case, especially in the mofussil where the standard of quality in the engines &c. is not so good as in Bombay, but I do not agree that it is wise to give the power generally. I wished to mention this case, so that it would not be wrongly used as my opinion on the whole question.”

Mr. Carroll is here clearly of opinion that if power was given in the Act to inspect prime movers, the certain result of it would be to hamper trade and industry. Mr. Carroll is a practical engineer. He was, moreover, appointed President of the Boiler Commission by Government. His opinion is thus entitled to great weight. I submit he does not endorse the view in favour of inspection of prime movers held by Sir Raymond West. In regard to inspection by notification, I understand his contention in the case of the Broach Cotton Manufacturing Company, to mean that since the existing law had expressly provided for its application to particular cases under certain circumstances, it, the Broach case, was one in which it might be applied “until the engines were put in good order when it could be suspended again.” The facts connected with the case are these: the Broach Manufacturing Company had its steam chest burst but there was no accident. The Agents got a new steam chest made by Messrs. Richardson and Cruddas, of Bombay. Before sending to Broach Messrs. Richardson tested the chest and found it to answer. Thereupon they attached a certificate to the steam chest stating that it was tested to a pressure of 100 lbs. on the square inch. On the Agents replacing the old steam chest by this new one, they sent the certificate of the new steam chest to the Collector of Broach, with a request that as the steam chest was certified to be strong enough to work at the full pressure, they may be permitted to use the steam chest. The Collector replied that the Boiler Inspector was the proper authority to judge of the fitness or otherwise of the steam chest and to direct up to what pressure it should be used. The manager was accordingly asked to await the Inspector’s instructions. Now it so happened that the Boiler Inspector for whose inspection the boiler certificates were sent, wrote across the certificates that the boiler should be worked at a pressure of 70 lbs. on account of the weakness of the steam chest. The Agents complained that the Boiler Inspector had exceeded his authority in making such remarks across the certificates, and alluding to the steam chest with which he had nothing to do under the Act, and as the new steam chest was certified to work at the full pressure, permission ought to be given to work the boiler at the full pressure. But this permission has been withheld to this day.

Mr. Bienzi Walton, Engineer to the Municipality, writes:—

“In my opinion the periodical inspection by a Government Inspector of prime movers, including fly wheels, is neither necessary nor advisable. I do not think such inspection necessary: *1stly*—Because makers of engines are, as a rule, careful to avoid defective construction in such parts, and, except in cases caused by negligence or some other cause not a constructive one, it is very rare that prime movers or fly wheels fail. *2ndly*—Because such defect, if due to faulty construction, would escape notice during inspection unless the process of dismantling all the parts was insisted upon. *3rdly*—Because prime movers and fly wheels are usually placed in a separate room to which the employés of a factory are not admitted, and the only persons liable to injury from prime movers and fly wheels are those most interested in seeing that they are free from defects and are kept in proper working order, which is in itself a sufficient guarantee. *4thly*—No superficial inspection can possibly detect latent defects in prime movers and fly wheels. I do not think it is advisable to have such inspection: *1stly*—Because it would place in the hands of the Inspector the power to dismantle any prime mover or to

remove any fly wheel at any time and thus completely stop the work of a factory merely to satisfy an inquiry which might possibly turn out to be based upon insufficient cause. *2ndly*—Such power in the hands of an unscrupulous person might very easily lead to oppression and needless vexation.”

And, lastly, I will read what Mr. Jackson says :—

“In answer to your request that I would let you have an expression of my opinion as to the proposed Act for the inspection of prime movers, I could not find time in which to write anything before leaving Bombay, but possibly the following somewhat disjointed remarks may be useful. As I understand the matter it is proposed that the Inspector shall have power to enter workshops at any time and order that the engine shall be opened out for his inspection. I think you would do well to oppose such legislation, which, I am sure, would be found more or less troublesome, depending upon the discretion exercised by the Inspector and those over him. I should be better able to explain my views on the subject of the proposed legislation if I knew what its supporters urge in its favor and from what class of accidents they wish to protect the public. This agitation has been going on more or less for the past 20 years, and yet I have never heard any one who could mention a few typical cases of accident that the Inspector would prevent. The opening out of an engine for examination is always a tedious affair; it cannot always be done during holidays, and there is always a great chance that when the work is boxed up something may be forgotten or wrongly placed, with the result that there is some failure when the engine is said to work. I refer to such failures as joints blowing and parts broken or cracked in the handling. Of course there must be examination, but I submit that owners are the best judges as to the frequency and circumstances under which they should be made. Of course much would depend upon the manner in which the proposed authority may be used; in the hands of a really competent Inspector, who studied the convenience of the owners, it might work fairly well, but you must be prepared for the reverse, and what has happened under the old Acts is likely to happen again at some time or another. I know something as to the working of the old Acts which provided for the inspection of prime movers. For about 1875, I with two colleagues (General White, of the Mint and Mr. Mathews, of the B. B. & C. I.) were appointed a sort of court to hear appeals from the decision of the Inspector under the Act. We heard several appeals, and I believe that in every case we upset the Inspector's ruling. It has been said that these early decisions were of value as showing that the Committee of appeal was quite prepared to take a common sense view of matters. I remember the circumstances of one or two appeals from decisions under the prime movers cause. The Inspector had in 1877 condemned the engine which drove the Jivraz Balloo Cotton Mill, because the main bed-plate was broken and cracked. The mill was stopped and the owners appealed to our Committee. My view was that there was not the slightest warranty for the Inspector's action and that the engine might continue to run with safety, and that, in fact, the breakage was of no importance, for in this particular engine the makers had chosen to make the bed-plate in one piece; whereas in many engines it is made in two pieces. My colleagues on the Committee were not Mechanical Engineers and they did not at first like to follow my lead, for they urged the usual stock arguments—‘the Inspector was appointed by Government and therefore must be competent. We ought to uphold his decision, &c., &c.’ At last they agreed to accept my view, with the result that the engine ran till 1885 without any inconvenience, and then, as a matter of convenience, the bed-plate was changed. I could mention a nearly similar case in which the engine of the Goculdas Mill was stopped because of an important crack in the crank axle.

These opinions serve to establish—(1) That the danger apprehended from prime movers is inappreciable; (2) that break-downs of steam engines are very rare, makers of engines as a rule being careful to avoid defective construction; (3) that improvements in the method of construction of engines, and the use of efficient governors tend to make such accidents rarer and rarer; (4) that the rate of wear of moving parts is as a rule well known to the engineer in charge and any increase in that rate is made manifest by a knocking noise as wear increases; (5) that no inspection of prime movers will guard against accidents unless there is a complete

overhaul which would necessitate the stopping a mill for two or three days, and (6) that the work of coupling up or resetting the different parts is always a tedious affair, and that there is danger of joints blowing, parts breaking, and getting cracked in handling, and also something may be forgotten or wrongly placed, the chances of accidents thereby increasing.

This expression of expert opinion indicates conclusively to my mind that the reasons for the non-inspection in any form of prime movers are overwhelming. In conclusion, Your Excellency, allow me to remark that in enacting a measure of this kind Government has nothing to gain; they have, as the honourable member had said, no other object in view than the safety of the limbs of the workmen, and this object, I submit, can be gained without uselessly hampering trade and industry; therefore I am, my Lord, opposed to this amendment, and I humbly trust the honourable member in charge of the Bill will see reasons not to press his amendment on the Council."

The Honourable RAO BAHÁDUR LINGAPA JAYAPA DESAI:—I think that the reasons of the honourable member and the speeches which preceded it are not strong enough, and so I suggest that the amendment of the Honourable Sir Raymond West should be carried.

The Honourable Sir RAYMOND WEST said:—Your Excellency,—We cannot accept the arguments put forward by my honourable friend opposite, unless they are supported by stronger and convincing reasons than those now brought forward. I cannot conceive anything more injurious to the dignity of this Council as a legislative body than that gentlemen of the Select Committee to whom this question was referred should agree to a particular modification of a clause or substitution, by way of compromise, and then entirely recede from their former position when the matter comes before this Council for final deliberation. I must state my conviction that when men are convinced afterwards of having made a mistake then the position taken up by them should be one of modest silence rather than that of opposition, otherwise we shall never know where we are when we discuss a Bill in the Select Committee. I am certain there could have been no intention on the part of the Honourable Mr. Yajnik or the Honourable Mr. Wadia to in any way mislead the Government or the Select Committee; but I must try to make my honourable friends understand that they are setting a very dangerous precedent in the line they are taking. The course taken by the honourable members, if I allowed it to pass quite unobserved, would be simply opening the doors of this Council to trickery on future occasions, although I am satisfied that in this particular case the honourable members opposite can be accused of nothing else than mere vacillations of opinion. So much as this my honourable friends in opposition must admit and cannot deny. The Honourable Mr. Yajnik must bear in mind that any compromise of this sort when once it is settled, and Government accepts it, will always leave Government exposed to tricks of chicanery, of it be not strictly adhered to. A few members in a Select Committee will tell us you give up this clause and we give up that clause and then they will recede from their opinions and come forward and say we shall have neither. Therefore allow me to say, Sir, without attributing for a moment the slightest moral blame either to the Honourable Mr. Yajnik or the Honourable Mr. Wadia, for both of whom I have the highest respect, but in this instance the stand taken by them both must be condemned—I say condemned in principle and in a most practical manner, by not yielding to the opposition which comes from those who have followed such a course of action, unless my honourable friends can bring forward arguments to overwhelm us. Now, as it happens, in this case we have had no convincing arguments put forward. First we have the opinion of the two honourable members who have changed their opinions, and I will now speak of them both in order. First we have Mr. Yajnik, who in his first speech at the introduction of the Bill admitted the necessity of legislation on this point. It was on this that this point first came to be discussed before the Select Committee, and subsequently it was entirely out of a spirit of conciliation that myself and my honourable colleague Sir Charles Pritchard agreed to change the form of section 35 for the sections 36 and 37 in the form in which they now stand in the draft Bill. These sections were before the Committee for a whole week before they were finally adopted by the Select Committee in the shape they now stand. At the last meeting of that Select Committee, the Honourable Mr. Yajnik and the Honourable Mr. Wadia raised some objection when the matter was being discussed, but at the same time Mr. Yajnik added that from his experience of

the factories up-countries, he thought some safeguard in the shape we had suggested was necessary; it was on this basis of opinion that we adhered to this section, and Mr. Wadia after hearing Mr. Yajnik yielded to Mr. Yajnik's opinion. This was the basis then on which we proceeded, and this was the opinion of that gentleman on this subject and my honourable friend Mr. Yajnik in the Select Committee then joined in giving assent to this section, but no sooner was the draft published than they changed their minds and placed the Select Committee in a most ludicrous position by making the public believe that three of the members of the Select Committee had been against this measure, and though the opponents were in a majority, the section had been carried through and adopted in the report. This is not the way of transacting public business. Men should not change their views when accepted as the basis of an agreement simply because their friends are opposed to those views. As a conclusion and giving them credit for the best intentions we cannot say that these gentlemen had any views at all, and their opinions can have no weight whatever with Government or the public. So much for one of the gentlemen who is now so very strongly opposing the Government. As for the Honourable Mr. Wadia, he held a particular opinion when the Bill was introduced into the Council, that opinion was changed in the Select Committee and he gave his assent to the sections 36 and 37, and reported in favour of this section; and I must now contend that this opinion which he held must have more weight with us than any transitory change in his subsequent opinions. The object of a Select Committee is this, that members there may discuss the whole subject in a familiar manner and come to some consensus of opinion, and this opinion is of much more importance than any other subsequent opinions of individuals without conference. The Honourable Mr. Wadia at the Select Committee was of opinion that the section should stand in the shape it now stands in the Bill. I dare say he too was greatly influenced by pressure brought to bear when the Bill was published, and the public saw the section in the new shape, and I am led to think this influence must have been a sinister one. Having thus changed his opinion, the circumstances destroyed any weight that might have been attached to his subsequent opinion. The very amendments of the Honourable Mr. Wadia show that in principle he accepted that the prime movers should be examined. If honourable members will take the trouble of looking at his amendments, they will see that he in sections 36 and 37 intended giving additional powers to the Magistrates by empowering them to give notice to the owners if they thought the engines were defective, and he wanted to maintain the power of the Inspectors in section 37 for inspecting the engines and giving advice to the owners. It is perfectly clear that he was subjected to influence of some kind or other that he oscillated like a pendulum, and his opinion after such oscillations is of no value at all. Our position therefore is as follows: We have two gentlemen from the Select Committee who have changed their opinion in such a way that their opinion is really no opinion. I must again say that the Honourable Mr. Wadia is a gentleman very honourable in his ways. I have a very great regard for him. I may say I do not know any one in Bombay for whom I have a greater regard, but I must nevertheless say, in this particular case I can attach no importance whatever to his opinion. He has written himself down as a man whose judgment is not to be trusted on this occasion. Mr. Wadia was examined on a former occasion by the Committee of 1885, when his opinions could be subjected to cross-examination, and we find when comparing his opinion with the expert opinion of other experts who gave their opinion before this Commission, that his views were not accepted. They were overborne by other skilled opinion. Yet I must say in perfect fairness to Mr. Wadia that his expert opinion on this occasion was not in favour of examining the prime movers. Let us turn now to the expert opinions laid before this Council by the Honourable Mr. Forrest: these opinions I must point out are open to a great deal of discussion and objection. They are open to some special remarks, and I must tell my honourable friend Mr. Forrest that I think am perfectly right in addressing these remarks to him. Mr. Forrest addressed a letter to His Excellency, marking it confidential, on the 30th May 1891. This letter came to my hands in the regular course of business as a member of Government and in my opinion and in the opinion of my honourable colleagues, these expert opinions and the opinions accompanying them were confidential and intended for the private personal information of the members of Government, and we were individually prevented from getting further information on this subject from those whose opinions had been thus forwarded to us as confidential. I am now surprised to see that this letter marked confidential has been placed in the hands of the non-official members and has materially

influenced their views on the subject. I have no hesitation in saying that the Honourable Messrs. Yajnik, Ranade and Fazulbhoy Visram were influenced. I say this was not the right course. I don't attribute any moral wrong to my honourable friend, nor do I say that this was an intentional departure from the right course, but I must say that this action was not fair towards the Government; and I say that the Honourable Mr. Forrest, if he intended communicating these opinions to the non-official members, should not have marked them as confidential; he ought to have made them open for discussion. Therefore I must say this action has deprived these opinions of much of the weight that could have been otherwise attached to them, because Government had no chance of analysing the opinions. If my honourable friend will look at these opinions he will find that they convey much less than what they at first sight appear to convey. First of all when such opinion is asked, the experts generally are inclined to take the side which consults them, and this is very natural, because the questions are put in a particular aspect and taking the suggested stand-point one is naturally inclined to agree with the views of those who first consult him. It is no dishonesty on the part of the experts, but it is rather misleading to put them questions in such a way as to bias them without their knowing it. Mr. Trevethick says in his letter: "I don't think that public safety would be secured by the examination of engines by the Government Inspectors." We do not say that this safety would be secured; we only say that this safety would be furthered. He does nowhere in his letter say that it would not tend to make the engines safer to have the defects pointed out. Mr. Trevethick next says, if the man selected for charge of the engine is well selected, nothing more can be done. Let us now see what Mr. Cotton says on the point. He says in the confidential letter, "In my opinion much positive harm would result by keeping clause 37, inasmuch as its retention would lessen the responsibility of the owner to see that he employed only a competent man to deal with his machinery. The Act forces him to employ a certificated engineer, but we know that a man holding a certificate may be technically qualified to take charge of a certain class of prime movers without having had the experience and practice necessary to the competent management of running machinery." Now you see from this that although your man is well selected, and holds a certificate of competency it is not a guarantee that you are secure with your machine and that he is able to keep it in proper control. If by inspection you get some additional security, then inspection is obviously to that extent advantageous and desirable; it will be an additional security for the lives of the people working in connection with the machinery. Next we will turn to Mr. Carroll, and in his views we see a striking example of how the opinions of expert and professional gentlemen vary according to the aspect of the case presented to them. In his letter he thinks prime movers can get on well without Government inspection and has expressed an opinion against the use by Government of such powers as embodied in sections 36 and 37 of the Bill as it stands, but not against such powers as I propose to introduce. This is the abstract opinion of Mr. Carroll, and let us compare this with his practical opinions, and I think, as Mr. Carroll is a practical man, his practical opinion must have more weight than his abstract opinion. His practical opinion was expressed in a case in connection with the Cotton Manufacturing Company at Broach whose engine had burst. There was a difficulty in getting the Company to do the repairs or reconstructions that were necessary. Mr. Carroll says on this occasion that he thought it necessary that Act III of 1887 should be made applicable to this engine until the Company put the engines in good order. Here we see how his practical opinion differs from his abstract opinion, and we can see the practical man recommending this very provision which we propose to reintroduce into the Bill, being made applicable in the case. This provision of the Act of 1887 was specially intended to meet such emergencies. That was the reserve power that had been invested in Government and Mr. Carroll saw no reason why it should not be used in that particular case, especially in the mofussil where the standard quality of the engines is not so good as in Bombay. All that we want to do now is to maintain this law as it was when Mr. Carroll thus approved it, and as it is at this moment. But my honourable friends opposite wish to extinguish this power, and here is one of their so-called strong witnesses bearing witness against them. It is impossible to have evidence more direct and telling than this, and if a plaintiff had a witness like this in the Court, I think he would tremble in his shoes and give up nine-tenths of his claim. Next we have Mr. Rienzi Walton giving his opinion of the draft Bill, in the shape in which it was put before him, and he says that it is not necessary to have periodical inspection of the engines. Well, this is exactly the position of the

Government. Government does not want periodical inspection but occasional inspection whenever necessity for such inspection arises. Here then we have Mr. Walton who makes out a strong case against periodical inspection, and at the same time makes out for the Government a strong case for occasional inspection, whenever there is specific reason for it. He further says that he does not think it advisable to have periodical inspection because it would be placing in the hands of Inspectors the power to dismantle any prime mover or to remove any fly wheel at any time and thus completely stop the work of a factory. This is another instance of the disadvantage arising from *ex-parte* opinions; because such opinions are always open to this objection, that they through the form of the inquiry in some measure reproduce the views of those who obtain them. Government intended to place prime movers under section 14, clause 2, the same as boilers. If the Honourable Mr. Forrest had drawn Mr. Walton's attention to that section the opinion of Mr. Walton, as an honourable professional man, would have been different. I must here remind my honourable friends opposite that, if the Inspector abuses his power by unnecessarily troubling the owners of engines, and stops the working of boilers, he can be made to give his reasons in writing for such an action, under section 7, clause 2. Now by the amendment I propose boilers and prime movers are brought on the same platform. Government will remove Inspectors who cause needless harassment, there was therefore no necessity for the Millowners' Association to dwell on this point in their petition. Government does not wish to unnecessarily hamper the industry of the country; over-meddlesome Inspectors can be easily brought to book and be dismissed, or will find their position one of extreme discomfort if they are found to have exceeded their powers. Every line, every word, every change of clause, every section in this bill has been introduced in the interests of the mill-owners and in the interests of the industry of the country. Honourable members opposite will not deny this. It is now contended by the Honourable Mr. Forrest that it is impossible to examine a prime mover without stopping it. This question was fully discussed by the Honourable Mr. Wadia at the Select Committee in connection with section 37, and it was finally agreed that section 37 should be allowed to remain as it now stands. The intention for which the section provided was that an Inspector should never stop an engine unless there was some good reasons for doing so.

The Honourable Mr. FAZALBHOY VISRAM interrupting the honourable speaker said that section 14 authorized the Inspector to stop the working of an engine.

The Honourable Sir RAYMOND WEST:—Yes, but it is only applicable to boilers and only in case of necessity; if the honourable member will read it he will see that boilers are distinctly mentioned.

The Honourable Mr. YAJNIK:—Yes, but it has been pointed out that no inspection is of any worth unless all the parts are taken to pieces.

The Honourable Sir RAYMOND WEST, continuing his speech, said:—I must point out to my honourable friends that this power is given to the Inspectors only in cases where they think it necessary to stop the work in order to examine the machinery and not otherwise; they must see an absolute necessity for this. What applied to the boilers would equally apply to the machinery. It could not be stopped without strong reasons. I think this furnishes an answer to my honourable friends in opposition. It was on these considerations that we allowed section 37 to remain as it now does, and I appeal to the memory of the honourable members, notwithstanding what has been said to the contrary, and I think my honourable colleague Sir Charles Pritchard will bear me out in what I have said.

Let us now turn to the opinion of Mr. Jackson. It is true that the Honourable Mr. Yajnik wanted us to insert the word "competent" before "Inspectors," but there was no necessity whatever for this. Government certainly would not purposely appoint bad Inspectors, or allow the Inspectors to degenerate into bad ones, unless they had some malignant purpose, and so Mr. Jackson's opinion, on which the Honourable Mr. Yajnik has been laying so much stress, is fully provided for. Mr. Jackson says, so long as Inspectors are competent, all will work well, and so my honourable friend has nothing to fear, for his wishes will be fully met by Government. Now this brings me to page 5 in the confidential letter where Mr. Jackson says: "You must be prepared for the reverse, and what happened under the old Act is likely to happen again at some time or another." Mr. Jackson here has simply taken a one-sided view, and I think if we had a chance of cross-examining him on the different points on which he has expressed his

opinion, then we would have had a chance of getting a clearer and more complete opinion. He says: "I know something as to the working of the old Acts which provided for the inspection of prime movers. For about 1875 I, with two colleagues, General White of the Mint and Mr. Mathews (of the B. B. and C. I.), were appointed a sort of court to hear appeals from the decisions of the Inspectors under the Act. We heard several appeals and I believe that in every case we upset the Inspector's ruling." Now we will see how the system worked since its introduction by the Act in 1873. Government wishing to have full and actual report on the subject got together some statistics on this point. I can on the strength of this information assure the honourable members that if Mr. Jackson's memory had been refreshed by references and tested by cross-examination, he would not have said what he now has said. I will read a few passages from the official reports as to what has really taken place. For the official year 1874-75 in seven months 93 engines were examined and the examination brought to light several defects. Two accidents occurred to prime movers during that time, but there was no loss of life or injury. It is seen from the reports that these accidents could have been avoided if the suggestions of the Inspectors had been attended to. In 1876, 137 engines were examined by the Inspectors, and they were generally found to be in a satisfactory condition, 24 engines were examined in Broach alone, and reported on favourably, and whenever any suggestion was made by the Inspectors they were gladly acted on by owners in every case, without any complaint. Again in 1877 some 177 engines were examined; out of this only 8 were found to be unfit for work, and these 8 were only ordered to be repaired and then worked. Only one appeal in these cases was received and the Commission upheld the decision of the Inspector. If the Inspector found 8 engines in the Mofussil which had to be stopped and only one of the 8 owners ventured to make an appeal, that is a strong proof that the Inspector did not abuse his authority, and shows, secondly, that the inspection was necessary owing to the defective machinery made use of in Mofussil establishments. However it may be in the City of Bombay where a vast amount of capital is employed, it would not pay to use defective machinery, yet up-country the case is very different. There are two other instances of appeal in 1877-78. In one the ruling of the Inspector was upheld. In the other three questions were raised and on two of these the Inspector's opinion was upheld and confirmed. The Inspectors were generally upheld when appeals were made, and the general result is to show that while there were some successful appeals yet Mr. Jackson's memory is not to be relied upon. This shows the value of professional opinions without cross-examination with reference to facts tending to an opposite view from that first suggested. But waiving all questions of this sort, what after all does this gentleman's opinion go for? Why, that when you have a really competent Inspector the Act will work fairly well—that is section 37 of the Bill as it stands now. His only objection is that you must sometimes be prepared for the reverse, and the basis on which he relies for the reverse entirely breaks down because it is founded on a memory that is defective. We come finally—I am sorry to occupy so much time—to Mr. Cotton's opinion. He says, "the Act forces him to employ a certificated engineer, but we know that a man holding a certificate may be technically qualified to take charge of a certain class of prime movers without having had the experience and practice necessary to the competent management of running machinery." If there is no guarantee with a certificated engineer, there must be a necessity for some other kind of inspection in order to furnish the necessary guarantee for the safety of those who expose their lives to danger from machinery. Very oddly Mr. Cotton is called in evidence against section 37 of the Bill as it now stands and his testimony is such as I have shown. In 1885 Mr. Cotton was a member of the Commission which recommended the inspection of prime movers. This formed the basis of section 33 of the Act of 1887, which according to my amendment would be retained as section 36 of the Bill now before us.

The Honourable Mr. YAJNIK:—I did not mention Mr. Cotton's opinion.

The Honourable Sir RAYMOND WEST:—Is that so? Then I beg your pardon. However, the argument is a valid one against Mr. Forrest. Mr. Cotton was a member of the Commission which sat on this subject in 1885 and gave his opinion. Act III of 1887 was passed and Mr. Cotton recorded no dissent from the general opinion expressed by that Commission, which is equivalent to a Royal Commission, where it is usual for members to express their dissent in a separate memorandum. Well that Commission possessed some tolerably intelligent members. They were Mr. W. B. Mulock, Mr. Sorabjee S. Bengallee, Mr. G. Cotton, Mr. Nanabhoj B. Jeejeebhoy, Dr. T. Blaney, Mr. Muncherjee Nowrojee

Banajee, and Mr. Muncherjee C. Murzban. These are very competent gentlemen to make an enquiry, and they examined experts, amongst others Mr. N. Wadia. Next to Mr. N. Wadia were Mr. Rustomjee Framjee Wadia, manager of the Páchora Ginning and Press Company, Mr. Moylan, Government Inspector under the Act, Mr. Anderson, Inspector of Machinery, Government Dockyard, and Mr. Carpenter, Superintendent of Sassoon Reformatory. The special qualifications of these gentlemen are set forth, and in the report the Commission state what was done, and the conclusions they arrived at from the evidence, which is free from the disadvantages of *ex-parte* evidence, which it is impossible to examine and analyse and have knocked about as cross-examining Counsel can do. The chief point elicited was that engines working in mofussil factories were in workmanship generally inferior. This does not apply so much to Bombay City where industries are carried on on a very large scale, and where bad machinery would not only be discreditable to the users, but unprofitable. Up-country, we know, it is different. Well, the Honourable Mr. Wadia at that Commission gave his opinion against the application of the Act to prime movers, but Mr. Anderson expressed a contrary view and so did the other Mr. Wadia, both of whom were considered by the Commission fit men to give their opinion on the subject, and similar opinions were expressed by other witnesses. If Mr. Cotton wanted to express his dissent from the general opinion he was at liberty to do so: this Commission was equivalent to a Royal Commission where any members wishing to express their dissent can do so separately, but nothing of this kind was done by Mr. Cotton, and so we find that the Act of 1887 was passed with the full consent of these gentlemen, who are now brought forward by the honourable members in opposition as holding opinions contrary to what they have previously and deliberately expressed. Now these opinions recorded by the Commission were not mere *ex-parte* opinions, but such opinions as on the present we have not been able to get. If it was thought necessary in 1835, how much more is it necessary for Government at the present time to have this power, because we every day see, from principles of economy, cheap machinery being introduced to India—such machinery as we are told good makers will never put their names to. I will now read to you from the report of Mr. Rustomji Framji Wadia's opinion:—

Mr. Rustomji Framji Wadia, a dealer in such boilers, stated:—

“I have found in the small factories in Bombay where they are working engines of under 10 horse-power, day and night,—the proprietors, being subject to no Government inspection,—make use of boilers which have been rejected, are quite unsafe to work, and which through the slightest negligence are liable to burst. The Engineers employed in these factories are as a rule inexperienced and uncertificated men. It is a positive fact that I have sold many of these boilers which have been rejected by the larger mills as being totally unfit for work. Of course I patched them up, but even then they were most unsafe. * * * After patching these boilers I put a coat of black Japan on them to make them look neat. This is done simply to improve the appearance of the boiler. At present I have two or three of these boilers for sale.”

The same witness added:—

“In many cases boilers rejected by the larger factories are bought and used by the smaller factories. I deal in machinery, and have got a large establishment in Bombay. I have disposed of some of these rejected boilers which were quite unfit for use, but I got my money. The — Mill has just rejected a boiler which has been bought by my firm. Both I and the Consulting Engineer in my office examined this boiler, and we found a plate absolutely curved in the dome where the water stands. It was most fortunate we made this examination. I have rejected this boiler as being unfit to work at 40 lbs. pressure. I tested it with both water and steam. I have not sold this boiler, but it is now for sale.—Of course I will not give a certificate with it. People do buy these boilers after putting a little paint here and there. I know of four or five accidents, and can tell you of as many as you like.”

Mr. Anderson states:—

“I know of a case where an owner assured me he would have carried 15 pounds more than I had given him leave to carry had he not been prevented by the Act from doing so, and that he had in another of his factory in the Duncan Road which

did not come under the Act an exactly similar boiler carrying the extra 15 pounds which I had declared unsafe."

Mr. Carpenter states:—

"I find from my experience that boilers which come down from up-country, having been rejected as unfit for use, are often bought and used by the owners of these small factories in Bombay. There is a considerable business done in these rejected boilers in Bombay. About 30 per cent. of the boilers in these small factories are unfit for use."

Mr. Moylan, the Government Inspector, states:—

"The advantage of having prime movers examined is that the brasses wear away altering the stroke of the piston, which may reduce the clearance in the cylinder between the cover and the piston at the completion of a stroke, and would result in the breaking of a cylinder cover and a general smash. Accidents of this nature have often occurred in Bombay. Again, unless inspection takes place the bolts in the junk ring become corroded, slack back, and that would also result in the breaking of cylinder cover. A case of this nature, resulting in loss of life, occurred within the last ten days."

Now we come to the report of the Commission; it states:—

"On the general advantages derived from the present Act all concur, and the evidence on the point carries conviction: all admit also the necessity for extending its provisions to boilers and prime movers of whatever horse-power. ... One witness (Mr. N. N. Wadia) pointed out the advisability of including in the Act all boilers or appliances used for the purpose of generating steam. ... The same witness pressed on us the expediency of removing all legislative interference with respect to prime movers, adducing as a reason that in Lancashire but few accidents occurred from engines breaking down. Circumstances in India and England are, however, widely different, and in the latter there is still much ignorance on the subject of machinery and how to work it. ... We then turn to the evidence given before us. One witness (Mr. R. F. Wadia) gives it as his opinion that Government have conferred a great boon on the proprietors of factories and on the public by the introduction of this Act, because Government inspection carries with it advantages in respect of preserving steam machinery from rapid deterioration and destruction. ... Another (Mr. Moylan) states that after 13 years' experience, I am decidedly of opinion, that Government inspection carries with it advantages both in respect of preserving steam machinery from rapid deterioration and destruction and introducing an economical working of machinery. The present Act has conferred such advantages. Mr. Anderson and Mr. Carpenter both endorse the above opinion, the latter adding that he believes the owners of these smaller boilers and prime movers not at present under the Act wish to be under it, as in the absence of Government inspection they have to employ and pay private agents."

Now I remind the honourable members that the Honourable Sir Frank Forbes Adam also held the same opinion. Surely the opinions of these gentlemen carry great weight, and these opinions are opinions arrived at after careful inquiry by a commission, when 9 witnesses were examined, 8 of whom were independent men and only one a Government servant. It is evident that in getting these opinions Government did not want to hamper the cotton industry, but, on the contrary, to do all it could to promote its growth, the Act III of 1887 has done no harm. It was the basis of these expert opinions and with a safeguard against hasty interference that the Act of 1887 was passed. This Act was first drafted in 1886, and the mill-owners brought forward substantially the same arguments against it as they bring now, viz., that Government interference was unnecessary and mischievous, and that it would hamper the activity of mill-owners. Now after a lapse of four years, I call upon every member present here if he can conscientiously say that he can quote any instance, any single solitary instance, where the action of Government has hampered the cotton industry. Let honourable gentlemen tell me if they remember any. Now if so many competent witnesses came to the conclusion that it was necessary to have prime movers examined, and if the Select Committee also came to the same conclusion, I ask the honourable member, after so many strong arguments in favour of the retention of a power to examine prime movers, whether any such strong reasons have been adduced for

depriving the Government of it. Are the opinions submitted by the Honourable Mr. Forrest sufficient to make the Government depart from the recognised principle and policy of the Government. Certainly not; the opinions submitted by the Honourable Mr. Forrest are partial and incomplete; Government cannot abandon its position at the mere call of any body or association. With all due respect to the Millowners' Association, I must say we cannot yield to their opinion without first fully and carefully balancing the different opinions before Government. Government has now before it the opinions of the best experts and the most experienced men, and in spite of these we are asked by the honourable members to depart from the line of action approved by experience; to abandon the precautions heretofore thought necessary for the safety of the people employed in working about engines. If we analyse the opinions of many who have spoken outside this Council against the measure, we cannot but see that they have been unduly influenced in many cases by motives of supposed self-interest. In England every measure of Government for the benefit of the working people has been vehemently opposed by the owners of mills and factories, but the experience of the past has been that legislation within reasonable bounds is good for the people, and I think this is our experience in the present case. We don't blame those who have changed their opinion. The incapacity of men of one rank or class to appreciate the needs and feelings of another has been a theme of the satirist from Juvenal's time to our own. So good and kind a woman as Madame de Sévigné could be almost heartless as to some sufferings of the peasantry. Men by looking always at one side of a picture in course of time become colour-blind—even Government officials are not free from this colour-blindness. But as we may look at things from a different point of view to that from which the public look, so too may the class of millowners fail to see all that tells against their personal views in such a case as this. I therefore ask those honourable members who have spoken against the introduction of this section, to review it now in the light in which I have placed it before them. I have no doubt I may fully trust to the openness and candour of their minds that they will now see this in the same light as Government, who have with anxious impartiality discussed the *pros* and *cons* in the present question. Now, before concluding, let me say that the millowners are quite right in pressing their views on us, and we are glad to have an opportunity of listening to them. They have looked from one side of the question and Government from the other, or rather I should say Government has looked from every side. This is the proper function of the Government and also of this Council. The report of the Select Committee represented the views of the majority. If a few of the Committee afterwards changed their views, the opinions of those who changed their views go for nothing; we are relegated to our original position and Government are fully justified in pressing their views on this Council and asking the honourable members to allow this amendment to be accepted. The Council is but asked to allow Government to retain the power which it already has, although that power has not been exercised. The existence of the power averts the need for its exertion. It is a necessary safeguard of the lives and limbs of the work-people—an ignorant helpless class who doubly appeal to us for protection—and it can stand as a power and a law not only without prejudice but with positive advantage to all classes of mill-owners and factory-owners throughout this presidency.

His Excellency the PRESIDENT said:—As a remark of mine at the second reading of the Bill, viz., that Government would oppose the Honourable Mr. Forrest's amendment, and would vote for the second reading, has been specially alluded to, I desire to explain to my honourable colleagues why I took the course I did. The motion before the Council was that "the Bill be read a second time." It is quite contrary to Parliamentary practice to allow an amendment to be moved on a second reading. A vote is taken, Aye or No, on the Bill as a whole. But the rules of procedure of this Council appeared to me at the time to admit of an amendment being moved; and, although I thought then, and still think, such procedure most inconvenient, I consented to Mr. Forrest moving his amendment. Subsequently the Honourable Mr. Latham advised the Council that whatever the wording of the rules might be, it had never been the practice of the Council to admit amendments on a second reading. Mr. Latham had more experience of the practice of the Council than any one, and I was glad to find the practice here followed on the lines of Parliamentary procedure at home, and therefore in the end decided that Mr. Forrest's amendment should be moved when the Bill was taken in detail, and not at the second reading. My remark, therefore, as to the course Government would take, made before Mr. Latham gave us his advice, was in a great measure prompted by a desire to

adhere to what I feel convinced is the most convenient course, viz., to take a direct vote at the second reading on the Bill as it comes up from the Select Committee. That course does not exclude the widest possible amendments being subsequently moved. As a matter of fact, we know that in England Bills are sometimes so altered in Committee of the House as to emerge scarcely recognizable by their draftsmen, and in deciding on negating Mr. Forrest's amendment at the second reading I had in mind that he would have the opportunity, and as I considered a far more fitting opportunity of moving it at the detail stage. There was at the same time another and a not unimportant consideration in my mind. Mr. Forrest's view was, as far as I could make out, even after Mr. Javerilal Yajnik had reversed his opinion, the view of the minority of the Select Committee, and I don't think it would be by any means convenient or indeed fair to the additional members of this Council for Government to initiate a practice of supporting the minority of the Select Committee at the second reading of the Bill. Higher authority has imposed this stage of consideration by a Select Committee on the Council, and it seems to me that it is more constitutional for the executive members of the Council to accept at the second reading the view of the majority than of the minority of the Select Committee. The position was unusual owing to the unexpected change of opinion of one member of the Select Committee; and under the circumstances I believe the opinion I gave as to what course Government would take was convenient as being most likely to avoid confusion in procedure, and was constitutional.

Passing to the motion before Council, I trust it will not be overlooked in the first place that there has been on the part of Government an anxious desire to pay due and careful attention to the views of our honourable colleagues and those of gentlemen who are in any shape interested in engines and opposed to the application of this clause to prime movers. The confidential document referred to expressed very strong opinions as to the advisability of applying clauses 36 and 37 as they now are, and the mill-owners have adduced reasons why that course should not be adopted, and the Honourable Mr. Forrest has obtained expert opinions which have supported the Millowners' Association. But we see no reason why we should recede from the opinion of Government, which was the opinion of the Government in 1887, and the more so now that honourable members of the Select Committee have repudiated the engagement into which they entered in Committee and from which they receded after coming out of Committee. It appears to us that the Government of 1887 were justified in coming to the conclusion they did. It was a wise decision to include in the Bill a permissive power. That was the argument that forced itself on our attention when we were considering the introduction of this Bill. Let us consider what the amendment is. Does it give new and drastic legislation? By no means. Is it a wrongful power which Government has misused in the past? By no means. There is not a single member present who will say "you have misused this power." We say these are useful powers, or may be so. They have been given and not misused, and we ask you to give us them again. I should like to point out to my honourable friend Mr. Ranade, for I gathered from his speech that he had been influenced in his opinions by these expert opinions placed before us, that these opinions were drafted on sections 36 and 37 of the Bill as it now stands. That is not the proposition before Council at this moment. We do not propose to include them in the Bill. We propose to substitute the permissive power of the Act of 1887. That is a question I should like my honourable friend to consider. It would at any rate only be fair to ask these expert gentlemen what is their opinion of the section in the Act of 1887. The Honourable Mr. Yajnik pressed us to obtain expert opinion, and if we were going to apply a compulsory power I should certainly say we had no right to do it without further expert opinion. But we are not going to do that. We are only asking for a permissive power to apply the Act to certain machinery if it should become necessary. Honourable gentlemen have discussed the question as if we were asking for powers misused in the past.

If the speeches had been directed to section 37 of the Select Committee's Bill, it would have been at least a legitimate argument, but seeing that the proposition is merely the re-enactment of a clause giving powers to Government which it has not misused, and which it has had for some four years, it appeared to me that he showed an unjustified apprehension. It is inconceivable that Government would wish to hamper the investment of capital in business by an unnecessary meddling with well-managed businesses. It has not done so in the past, and there is no reason why it should do so in the future; but it is legitimate for Government to adhere to the opinion it entertained in 1887 that

it would be a wise precaution to include these permissive powers, in case instances of recalcitrant or ignorant owners of prime movers should present themselves, in order that due care might be taken, by expert examination, of the lives of employes, and I must repeat what my honourable colleague has already pointed out, that there was no dissentient voice to the inclusion of these powers in 1887. It has been suggested that this or that honourable member had ideas in his mind which induced him not to dissent to the proposal. That is an argument which never can carry weight. A man or a body of men must be judged by what they say and do, not by what they may have had in their minds but did not do. Public form is the only true criterion of a man's thoughts and actions. If any honourable member had in his mind in 1887 an objection to this provision, it was within his competence to have moved an amendment, even only *pro forma*, and to give him an opportunity of stating his objections. None did so, and the body individually or collectively must be judged by what it said and did, not by what it left unsaid or undone. Yet some honourable members are apparently ready to ignore now that unanimous opinion of only four years back, and take away from Government a power which it has not misused, and which, for all that they can say or know, it might be desirable for Government to have had very soon after they had struck this permissive section out of the Bill, and the Bill had become law. Now my honourable friend Mr. Yajnik has said that no such law exists in any part of the world. Well I do not know where my honourable friend got the information from, but I have here an Act passed in Bengal, an Act for the inspection of boilers and prime movers. Now if such law already exists in Bengal, why not have it here? They no doubt must have seen the necessity of it in Bengal. From this you can see how meagre and one-sided has been the information of our honourable friend Mr. Yajnik. I must therefore say that the arguments of my honourable friend are the arguments of the owners of engines and not his own. I think the proposal of Government has been opposed too much on the assumption—though, from the experience of some years, unwarranted assumption that careful owners of prime movers will be hampered and interfered with by officious inspectors. There is no past experience to justify any such assumption. It is not to the interests of Government to meddle with trade unnecessarily any more than it is to the true interests of owners of prime movers to have their engines without proper supervision. The arguments of our honourable colleagues, who have opposed this amendment, have represented the wishes of the owners of engines. Government are not justified in taking only a partial view; they are bound to consider also the welfare and safety of employes about engines. Our honourable colleagues without being able to show that this power has ever been arbitrarily employed, and with no power to foresee whether or not such powers may not be most desirable at any moment in the future, desire to deprive Government of that power of interfering in the interests of the employed. That is an opposition which Government, after giving a careful regard to all the arguments adduced to support it, considers itself justified in resisting. We are not asking for any additional powers, or for a repetition of powers we have previously misused; we are simply asking for a re-enactment of a permissive power, the inclusion of which in the Bill may, for all that any one can say, prove at any moment to have been a most wise precaution. I trust that those gentlemen who have brought forward arguments against this amendment will now see sufficient grounds for withdrawing the opposition they intended to make.

The amendment was then put to the vote, and the Council divided—

<i>For.</i>	<i>Against.</i>
His Excellency the Commander-in-Chief,	Honourable Mr. Forrest.
Honourable Sir R. West,	Honourable Mr. Yajnik.
Honourable Sir C. B. Pritchard,	Honourable Mr. Fazulbhoj Visram.
Honourable the Advocate General,	
Honourable Ráo Bahádur Ranade,	
Honourable Ráo Bahádur Oodharam	
Mulchand,	
Honourable Mr. Lingapa Jayapa Desai,	
Honourable Mr. Moore.	

For—8. *Against*—3.

The amendment was thus carried.

The Honourable Sir RAYMOND WEST then presented to the Council, as agreed on at the previous meeting, a draft amendment of section 23, for providing for notification in

cases where an engineer withdraws himself when his conduct is under enquiry before a Magistrate. The honourable member moved the addition of a sub-section as follows:—

“ (3) Where any holder of a certificate shall have been called on to deposit the same under sub-section 2, or when any enquiry into his conduct shall have been directed by Government if such holder shall fail to deposit his certificate or shall withdraw beyond the limits of the presidency of Bombay, Government may notify such failure or withdrawal by notification, giving a statement of circumstances as far as known.”

The amendment was accepted.

The Honourable Mr. FORREST then moved that section 37 of the Bill be omitted.

The amendment was adopted.

The Honourable RAO Bahádur OODAHARAM MULCHAND then withdrew his amendments to omit clause (b) of section 3, which defines “prime movers” and his amendment to omit the words “prime mover” in section 1 sub-section 3 and in other sections of the Bill.

The Honourable RAO Bahádur OODHARAM MULCHAND further withdrew his amendment to add the words “and specific” between the words “reasonable” and “direction” in section 37, line 8, and to add the words “in writing” after the word “given” in the same line of the same section.

The Honourable Sir RAYMOND WEST moved to re-insert in the title and preamble of the Bill the words “prime movers.”

The amendment was adopted.

THE BOMBAY GENERAL CLAUSES BILL.

Bill read a third time and passed.

Bill No. 2 of 1891, “A Bill to amend the Bombay General Clauses Act, 1886,” was read a third time and passed.

His Excellency the PRESIDENT then adjourned the Council to Saturday the 22nd August.

By order of His Excellency the Right Honourable the Governor,

A. C. LOGAN,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Poona, 10th August 1891.

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 22nd 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 Lieutenant-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 Ráo Bahádúr MAHADEU GOVIND RANADE, M.A., LL.B., C.I.E.

The Honourable Mr. JAVEMMAL UMIASHANKAR YAJNIK.

The Honourable Ráo Bahádúr OODHARAM MULCHAND.

The Honourable Mr. FAZULBHOY VISRAM.

The Honourable Mr. J. G. MOORE.

The Honourable Mr. J. R. NAYLOR, C.S.I.

I.—Bills and Orders of the day :—

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.—*Third reading.*

The Honourable Sir RAYMOND WEST said :—Your Excellency, before we proceed with the third reading of this Bill, I wish to suggest a few changes which involve no alteration in the principle of the Bill, but are chiefly verbal amendments which occurred to me and one or two which were suggested by my honourable

Consideration in detail of the Bombay Boiler Inspection Bill resumed.

friend Mr. Naylor, whose experience in this department is very large. I don't think that these amendments are such as need cause any opposition from any of the honourable members. To my mind they are mere verbal amendments, and the transposing and re-adjusting of certain sections. I propose to split section 7 into two sections, because the first part of this section deals with the registration of boilers and the latter part deals with the examination of the boiler, thus treating of two different duties devolving on the inspector. I therefore propose, with the assent of the Council, to transpose the first sentence in sub-section 2, viz., "The owner of a boiler who desires to use the same shall, if it is unregistered, cause it to be registered," as sub-section 1 of section 7, and the present sub-section 1 will then be sub-section 2. This slight change in position having been made, I will treat the second sentence commencing from "If he does not hold in respect thereof, &c." as section 8 or for the present section "7A." This alteration will necessitate the alteration in the numbering of all the other sections, and also the sub-sections in this section 7A (8) will have to be re-numbered.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—My next amendment is to substitute for the word "he" in line 21 of section 7A the words "the owner of a boiler."

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In the same section, I mean 7A, for the words "granted and operating under the provisions of section 6" in lines 22, 23, 24, substitute the words "which is at the time in force." The words as they stand do not quite answer the purpose and my amendment would be a better expression.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In the same section (7A), in line 26, after sub-section (1), insert the words “of section 7,” and for sub-section (1) read “sub-section (2).” This change is necessary as section 7 has now been split into two sections and sub-section 1 has been made sub-section 2.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In the same section (7A), in line 32, sub-section 1, after the word “boiler” insert the words “and of his desire to obtain a certificate.”

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In the same section (7A), in lines 34 of sub-section 2 and 48, 49 of sub-section 3, omit the words “if a certificate is required.”

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 9, line 7, for sub-section (1) read sub-section (2), and in line 16 for section 7 read 7A, which changes are now necessary as the result of the previous amendments.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In the same section, in line 25, after the words “Schedule A” and before the word “every” insert the words “except as is otherwise provided in sub-section 5 of section 7A.”

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 10, line 9, between the words “owner” and “aggrieved” I propose to insert the words “deeming him-self,” as some people might think that there is a begging of the question in the use of the word aggrieved by itself.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 13, line 30, after the words “thereof” add the words “or of their successors in office.” I especially wish to add these words as when granting a fresh certificate to the owner after the revocation of the first, it may so happen that some of the members of the Commission may have died or left the country and it will be necessary that their successors should sign the fresh certificate, and thus prevent hair-splitting.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 14, line 22, after the word “stoppage” add the words “and the owner shall thereon become subject to the provisions of section 8” as in this section there is no mention of what the owner is bound to do.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 17 it is proposed to insert a new sub-section, therefore the present section becomes sub-section (1) and the second sub-section will be as follows :—

“(2) A person who becomes owner of a boiler during the time for which a certificate therefore operates shall be entitled to receive the certificate from the preceding owner and shall be subject to the provisions of sub-section (1).”

This amendment has occurred to me owing to a particular case wherein the owner of a boiler after parting with the boiler, kept the certificate in his possession, and the actual owner when called upon for the certificate said he had not received it when purchasing the boiler. Thus instances may arise where it might be found to be practically impossible to get the certificate from a former owner, and this section might be rendered inoperative. I think it is necessary to provide against this, because if it is possible for one to get out of the terms of the statute he will avail himself of the opportunity of doing so. Therefore I suggest the insertion of the above sub-section which will necessitate every purchaser seeing that the owner makes over the certificate to him before disposing of his boiler and thus fixes the responsibility on the new owner to see that he receives the certificate along with the boiler and thus prevent collusion between two owners.

The Honourable Ráo Bahádúr OODHARAM MULOHAND :—Will it not be necessary to endorse the certificate over to the purchaser?

The Honourable Sir RAYMOND WEST :—If he wishes, certainly.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 18, line 2, between the words “periodically” and “at such places” insert the words “by a Board of Examiners.”

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 19, line 3, omit the words “one or more.”

The amendment was adopted.

The Honourable Mr. NAYLOR :—With His Excellency the President's permission I would move in section 20, sub-section 1, line 2, for the word “reported” to substitute the word “declared.” I think this would be a better reading in consequence of the other amendments in the sections which have just been adopted.

His Excellency the PRESIDENT :—Yes, I think so too.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In this section I also propose in line 7 for the word “report” to substitute the word “decision” and in lines 8 and 9 to omit the words “member or”.

The amendments were adopted.

The Honourable Sir RAYMOND WEST :—In section 21, sub-section 3, line 18, for the word “recommend” substitute the word “determine”.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 30, lines 6 and 7, for the words “subject to a fine of an amount not exceeding” I propose to substitute the following words : “Punished with fine which may extend to” in order to bring the phraseology of the Bill into conformity with that of the Penal Code.

The amendment was adopted.

The Honourable Sir RAYMOND WEST :—In section 34, clause “b”, line 11, for the figure “7” to substitute “7 A and 16”. The former is necessary owing to section 7 having been now made into two; the insertion of the latter is necessary as this section entails on the Inspector a duty for which Government should fix a certain amount of fee. For the word “section” immediately before the figure it will be necessary to read “sections.”

The amendments were adopted.

The Honourable Mr. NAYLOR :—This will then necessitate a similar change in Schedule “B”.

His Excellency the PRESIDENT :—Yes, we will make similar changes there when we come to it.

The Honourable Sir CHARLES PRITCHARD :—I propose as a further amendment in section 34, clause “c”, line 19, to insert between the words “aforesaid” and “the” the word “and”.

The amendment was adopted.

His Excellency the PRESIDENT :—We will now take the schedules, and accept the Honourable Mr. Naylor's amendment to alter “section 7” in Schedule “B” to “sections 7 A and 16”.

The amendment was adopted.

Bill read third time and passed. The motion to read the Bill a third time was put to the vote and carried without a division and the Bill was read a third time and passed.

His Excellency the PRESIDENT then adjourned the Council *sine die*.

By order of His Excellency the Right Honourable the Governor,

A. C. LOGAN,

Secretary to the Council of the Governor of Bombay

for making Laws and Regulations.

Poona, 22nd August 1891.