

Thursday, 11th April, 1929

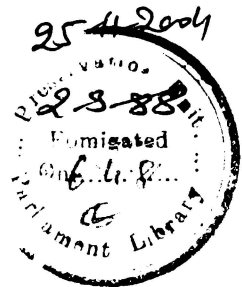
THE
COUNCIL OF STATE DEBATES

VOLUME I , 1929

(12th February to 12th April 1929.)

SIXTH SESSION

OF THE
SECOND COUNCIL OF STATE, 1929



SIMLA
GOVERNMENT OF INDIA PRESS
1929

CONTENTS.

Pages.

Tuesday, 12th February, 1929—

Members Sworn	1
Recent Illness of His Majesty the King-Emperor	1-2
Questions and Answers	2-11
Deaths of Mr. S. R. Das and Sir Muhammad Rafique	11-13
Messages from His Excellency the Viceroy	13-14
Committee on Petitions	14
Governor General's Assent to Bills	15
Message from the Legislative Assembly	15
Motion for the Election of a Panel for the Standing Advisory Committee for the Department of Education, Health and Lands—Adopted	15
Motion for the Election of a Panel for the Standing Advisory Committee for the Department of Industries and Labour—Adopted	16
Motion for the Election of a Panel for the Central Advisory Council for Railways—Adopted	16
Presidency-towns Insolvency (Amendment) Bill—Introduced	17

Wednesday, 13th February, 1929—

Resolution <i>re</i> Development of Waterways—Negatived	19-28
Resolution <i>re</i> Establishment of Steamer Services in conjunction with State Railways—Negatived	29-32
Election of two Members to represent the Council of State on the Court of the Delhi University	32

Monday, 18th February, 1929—

Member Sworn	33
Message from the Legislative Assembly	33
Election to the Panel for the Standing Advisory Committee for the Department of Education, Health and Lands	33
Election to the Panel for the Standing Committee for the Department of Industries and Labour	34
Election to the Panel for the Central Advisory Committee on Railways	34
Resolution <i>re</i> Repeal of the Indian Arms Act—Negatived	34-42
Resolution <i>re</i> Return Tickets on State Railways for Third Class Passengers—Withdrawn	43-48
Resolution <i>re</i> Betting at Races—Negatived	49-55
Statement of Business	55

Tuesday, 19th February, 1929—

Member Sworn	57
Elections to the Panel for the Standing Advisory Committee for the Department of Education, Health and Lands	57
The Railway Budget for 1929-30	57-65
Presidency-towns Insolvency (Amendment) Bill—Passed	65-66

Friday, 22nd February, 1929—

General Discussion of the Railway Budget	...	...	67-91
Statement of Business	...	...	91

Monday, 25th February, 1929—

Member Sworn	...	...	93
Questions and Answers	...	...	93-96
Resolution <i>re</i> Separate Karnataka Province—Negatived	...	...	97-102
Resolution <i>re</i> Slaughter of Milch Cows for the Supply of Beef to the Army—Negatived	...	...	103-137
Resolution <i>re</i> Extension of Banking Facilities—Withdrawn	...	...	113-18

Wednesday, 27th February, 1929—

Resolution <i>re</i> Import of Vegetable Oil, etc—Adopted	...	...	119-33
Resolution <i>re</i> Reconstitution of the Central Advisory Council for Railways—Withdrawn	...	...	134-38

Thursday, 28th February, 1929—

The General Budget for 1929-30	...	...	139-53
Statement of Business	...	...	153

Monday, 4th March, 1929—

Member Sworn	...	...	155
Message from Her Majesty the Queen-Empress	...	...	155
Questions and Answers	...	...	155-80
Congratulations to the Honourable Colonel Nawab Sir Umar Hayat Khan and the Honourable Sir Annamalai Chetty on the Honours conferred on them	...	...	180-81
Resolution <i>re</i> Reduction of the Price of Postcards—Negatived	...	...	181-93
Resolution <i>re</i> Assessment of Income-tax on the Annual value of Residential Property—Withdrawn	...	...	193-203

Wednesday, 6th March, 1929—

Questions and Answers	...	...	205-10
General Discussion of the General Budget	...	...	210-55
Statement of Business	...	...	256

Tuesday, 12th March, 1929—

Questions and Answers	...	...	257-66
Bilk passed by the Legislative Assembly laid on the Table	...	...	266
Resolution <i>re</i> Deductions when determining Income-tax of Losses incurred by Persons who stand Surety or lend Money	...	...	266-75
Statement of Business	...	...	276

Monday, 18th March, 1929—

Questions and Answers	277-85
Bill passed by the Legislative Assembly laid on the Table	286
Message from the Legislative Assembly	286
Resolution <i>re</i> Jury Trials in cases of Sedition—Negatived	286-94
Resolution <i>re</i> Leader of the Indian Delegation to the League of Nations—Withdrawn by leave of the Council	294-305
Resolution <i>re</i> Distribution of Spinning Wheels to the Famine-stricken people of the Northern Districts of the Central Provinces—Negatived	305-11

Tuesday, 19th March, 1929—

Questions and Answers	313-20
Statement laid on the Table	320
Motion for the Election of the Panel for the Standing Committee on Emigration—Adopted	320-21
Indian Tariff (Amendment) Bill—Passed	321-23

Wednesday, 20th March, 1929—

Questions and Answers	325-30
Date for the Receipt of Nominations to the Panel for the Standing Committee on Emigration	330
Resolution <i>re</i> Investigation into the Systems of Land Revenue in the Different Provinces—Negatived	331-57
Statement of Business	357

Saturday, 23rd March, 1929—

Member Sworn	359
Questions and Answers	359-63
Elections to the Panel for the Standing Committee on Emigration	363
Workmen's Compensation (Amendment) Bill—Passed	364-65
Alleged delay in the Disposal of Government Business in the Legislative Assembly	365-68

Saturday, 30th March, 1929—

Questions and Answers	369-75
Bill passed by the Legislative Assembly laid on the Table	375
Election of a Member to the Governing Body of the Central Council of Agricultural Research	376-77
Indian Finance Bill—Considered and Passed	377-400

Monday, 8th April, and Tuesday, 9th April, 1929—

Monday, 8th April, 1929—

Questions and Answers	401-02
Election of the Panel for the Standing Committee on Roads	402-05
Election of a Member to the Governing Body of the Central Council of Agricultural Research	405

Tuesday, 9th April, 1929—

Member Sworn	407
Bill passed by the Legislative Assembly laid on the Table	407
Trade Disputes Bill—Date for consideration	407

	Pages.
Thursday, 11th April, 1929—	
Recent Bomb Outrage in the Legislative Assembly ...	409
Trade Disputes Bill—Considered and Passed ...	409-30
Elections to the Panel for the Standing Committee on Roads	430
Message from His Excellency the Viceroy ...	431
Friday, 12th April, 1929—	
Address by His Excellency the Viceroy to the Members of the Council of State and the Legislative Assembly ...	433-35

COUNCIL OF STATE.

Thursday, 11th April, 1929.

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

RECENT BOMB OUTRAGE IN THE LEGISLATIVE ASSEMBLY.

THE HONOURABLE THE PRESIDENT: I desire to claim the attention of the Council for a moment this morning while I make a brief reference to the events which happened in the Chamber of the Legislative Assembly on Monday morning. The Council will realise that for obvious reasons the occurrence of that morning cannot at this time be a subject for discussion here, but I feel convinced that all Honourable Members would like to join with me in placing on record our condemnation and deep abhorrence of the dastardly outrage committed in the other Chamber. The House, I am sure, will desire to associate themselves with me in an expression of our profound sympathy with the Honourable the President and the Members of the Legislative Assembly; with the Government; and particularly with those persons, Members of the Legislature and others, who received injuries; of our prayer for their speedy recovery; and finally of our heartfelt thankfulness that the casualties which resulted were slight compared with what they might have been; that we have been spared from what might so easily have been a tragedy of the first magnitude, and that by the grace of Providence the lives of our Colleagues in the other House have been miraculously spared.

TRADE DISPUTES BILL.

THE HONOURABLE MR. SHAMALDHARI LALL (Department of Industries and Labour: Nominated Official): Sir, I rise to move that the Bill to make provision for the investigation and settlement of trade disputes, and for certain other purposes, as passed by the Legislative Assembly, be taken into consideration.

Sir, the Bill which is now before the House is a measure of some importance, and in making this motion I am painfully conscious of the heavy responsibility which has fallen somewhat unexpectedly on my inexperienced shoulders. The nervousness and hesitation which is only natural on such an occasion is, however, in my case largely overcome by the belief that the sympathy and kindness of this House will overlook all my faults and shortcomings. I shall endeavour to be as brief as possible, and I know that owing to the lateness of the season, a short speech would be most welcome. But I will be failing in my duty if, in view of the importance of this measure and the public interest which it has aroused, I do not to the best of my ability explain in some detail its main principles and the objects underlying them. I will begin, Sir, with a brief retrospect of the circumstances leading to the introduction of this measure. This will, I hope, enable me to dispose of a charge which has been made against Government that it is acting with indecent haste in rushing this measure through the Legislature. The question of legislation was first taken up in 1919, in which

[Mr. Shamaldhari Tall.]

year the British Industrial Courts Act was passed. Most of the Local Governments who were then addressed expressed the opinion that, in view of the lack of organisation among the workers, legislation of the kind was unlikely to be effective. The matter was therefore dropped. But in 1924, at the instance of the Government of Bombay, the Government of India again took up the subject. Their proposals, which were embodied in a draft Bill and circulated to Local Governments for opinion, met with a somewhat mixed reception and it was soon apparent that legislation of the kind would present many difficulties until the workers were able to organise themselves into strong and responsible trade unions. The Government of India therefore concentrated their energies on the Trade Unions Bill which was passed by both Houses of the Legislature early in 1926. In the meantime, however, there was no diminution in the loss occasioned by industrial disputes and the seriousness of the situation was brought home forcibly last year when a wave of industrial unrest swept through the country and very nearly paralysed two of its most important industries, namely, the textile industry in Bombay and the steel industry in Jamshedpur. I do not wish to bore the House with detailed statistics, but I will give just a few figures which will illustrate the necessity as well as the urgency of this measure. In 1928 the total number of working days lost as a result of industrial disputes reached the record figure of 31½ millions, which was even greater than the total number of working days lost in the five preceding years taken together. The general strike in the Bombay textile mills involved a loss of about 21 million working days and of nearly 3½ crores of rupees in wages alone. I do not for a moment wish to suggest that this Bill, if passed into law, will put an end to all industrial disputes. No legislation can do that and all we can hope is that the legislation we propose to set up will, as in other countries, make some contribution towards the movement for industrial peace. Co-operation between capital and labour cannot be promoted by legislation alone, and we must continue to rely on the good sense of both parties for the achievement of the object which we all desire and which is so necessary in their own interests. There is another point to which I would like to invite attention. There is no finality about this measure. It is of a somewhat experimental nature. Honourable Members will observe from sub-clause (4) of clause 1 that the Bill will come up for reconsideration by the Legislature, if it is still considered necessary, after it has been in force for a period of five years. This sub-clause did not exist in the original Bill as introduced in the Legislative Assembly, but Government agreed to its insertion as it was all along intended that the provisions of the Bill would be reconsidered after some experience had been gained of its working.

The Bill may for convenience be divided into three parts. The first part, consisting of clauses 3 to 14, deals with the establishment of tribunals for the investigation and settlement of trade disputes. The second part, clause 15, relates to public utility services which are defined in clause 2 (g) of the Bill. The third and last part of the Bill, consisting of clauses 16 to 18, contains certain special provisions relating to illegal strikes and lockouts which are based on recent legislation in Great Britain. The criticism has been made that the Bill jumbles together provisions which are in no way connected with each other. This criticism, I submit, is not justified as there is one fundamental principle underlying all three parts of the Bill, namely, that disputes between employers and workmen do not concern employers and workmen alone, but also the community as a whole and involve an obligation upon Government. The soundness of this proposition has not been challenged and experience has also shown that neither of the two contending parties can hope for success if it

provokes the third party, namely, the community as a whole which is also vitally concerned, though indirectly.' The principles underlying each of the three parts of the Bill are in harmony with the general principles which I have just stated, and in my opinion the Bill contains nothing which can in any way retard the growth of legitimate trade unionism in this country.

As regards the first part of the Bill, the intention is to set up two types of machinery, namely, Boards of Conciliation and Courts of Inquiry. The former is intended to secure compulsory conciliation and the latter compulsory investigation. The appointing authority in both cases is the Local Government or the Governor General in Council where the employer is the head of a Department under the control of the Governor General in Council. After a careful consideration of the circumstances obtaining in India the Government of India came to the conclusion that for successful working it would be necessary to leave it to the discretion of the appointing authority to decide when and which particular type of machinery is to be set in motion. It also considered that the discretion of the appointing authority should not be fettered in any way with regard to the constitution of both the Boards of Conciliation and the Courts of Inquiry. The only restriction imposed was that in the case of a Board of Conciliation the parties to the dispute were to be represented in equal numbers unless the appointing authority thought it necessary to appoint only a single independent person. It was for this reason that the panel system, which was a feature of the original proposal of the Government of India, was abandoned as being impracticable. Two minor modifications were made in the Bill as introduced in the other place. In the first place, a proviso was added to clause 3 which made it compulsory for Government to appoint a Court or a Board when it was assured that both parties were agreed as to the necessity of a reference as well as to the form which that reference should take. Secondly, it was considered that a Court should not include any person having an interest in the dispute or concerned in an industry which was affected by the dispute. It will be observed that the findings of either a Board of Conciliation or a Court of Inquiry are not in any way binding on the parties. But we hope to be able to mobilise public opinion in order to bring about the speedy settlement of industrial troubles. As stated by the Honourable Mr. McWatters in another place, "it is the public and the press who are to be our High Courts of Appeal". It has been urged in some quarters that the Bill is a one-sided measure directed against the workers in India. I do not however remember to have seen any criticism of labour representatives on the principles underlying the first part of this Bill, which in my opinion should prove to be very useful in helping the workers of the country to obtain their legitimate rights. The public and the press are on the whole sympathetic towards the working classes, particularly if they have any substantial grievance, and if the Bill passes into law, the employers will have to be more careful in their dealings with their illiterate work people, because they will now run the risk that whatever they may do in secret is liable to be proclaimed from the house-tops.

I now turn to clause 15 of the Bill which contains special provisions regarding public utility services. The principle underlying this part of the Bill is that public utility services are in a category by themselves because any sudden dislocation of them inflicts a great inconvenience and hardship upon the whole community. The workers in these industries are in a particularly strong strategic position by reason of the essential services they perform, and there is therefore no injustice in curtailing to a limited extent their right to strike. The principle has been recognised in the legislation of most industrial countries. Substantial changes have been made in this clause as passed by the Legislative Assembly but the principle underlying it remains

[Mr. Shamaldhari Lall.]

unaffected. As originally drafted it would have been a penal offence for workers employed on monthly wages in public utility services to withdraw from their duties without giving a month's previous notice. Heavier penalties were also provided for persons abetting such an offence. This clause came in for a good deal of criticism, both from Local Governments and from labour associations. For example, it was pointed out that it would penalise the abstention from work on the part of a particular individual, and that it was one-sided as it inflicted no penalty upon an employer who locks out his workmen. It was therefore decided to substitute in its place the existing clause which is based on the corresponding provision in the New Zealand Industrial Conciliation and Arbitration (Amendment) Act of 1908. It will be observed that the clause as now drafted requires 14 days' previous notice instead of one month as provided in the original Bill. It makes it clear that a cessation of work must be in the nature of a strike as defined in clause 2 (i) of the Bill, and that in order to render it a penal offence, the strike must be in breach of a definite contract between the employer and the workmen. Further the clause is now bilateral, as it deals with a lock-out in a public utility service in the same way as a strike. The provisions of clause 15 must be read in connection with the definition of "public utility service" in sub-clause (g) of clause 2 of the Bill. There have been two and opposite lines of criticism against the definition of the term "public utility service". It is maintained by some that the definition is unduly wide and that only the services which supply light and water to the community should be treated as "public utility services". On the other hand it is argued that the definition is much too narrow as it leaves out two important services, such as tramways and inland steam vessels. The Government of India have throughout proceeded on the policy that it would be desirable to move cautiously in this matter, and although the scope of sub-clause (g) of clause 2 is somewhat restricted, it does secure substantial protection to the community against the hardship caused by lightning strikes. Originally this clause contained a provision enabling the Government of India to declare any industry, business or undertaking to be a "public utility service". This was, however, omitted in the Bill as finally passed in the other place. It will thus be seen that the scope of the term "public utility service" has been considerably restricted and it may safely be assumed that, if the employees in the limited number of essential services which are now included in clause 2(g) decide to violate the provisions of clause 15, they will be alienating the sympathy of the community as a whole and will thus be minimising their chances of gaining any concessions from their employers.

I turn now to the third part of the Bill which contains certain special provisions relating to illegal strikes and lock outs. The provisions of this part of the Bill have been subjected to severe criticism, and it has even been suggested that it is the counterpart of the Public Safety Bill which is under consideration in another place. I submit, however, that there is nothing political in this or in any other part of the Bill and the provisions of clauses 16, 17 and 18, which follow closely the provisions of the British Trade Disputes and Trade Unions Act, 1927, are based entirely on economic considerations. A strike to be "illegal" under clause 16 must satisfy both of two conditions. First of all, it has to be a strike which is not purely industrial, and secondly, it has to be a strike which is directed not against the individual employer but against the very vitals of the community. It has been argued that the provisions of clause 16 would penalise a sympathetic strike. This, however, is not the case. The clause does not touch a sympathetic strike any more than it touches any other strike unless it satisfied both of the two conditions

which I have just mentioned. Thus the strike which took place in the Bombay textile mills last year was a sympathetic strike on a very large scale, but it would clearly not come within the scope of this clause, as the first of the two conditions was not fulfilled. The clause is directed against a general strike such as occurred in Great Britain in 1926. A similar strike has not yet taken place in India and I may be asked why the Government of India have thought it necessary to provide for a contingency which has not yet arisen. I would, in reply, point out that in India the methods of industrial warfare have been closely copied from Great Britain and there is sufficient evidence to show that the ground is being prepared for a general strike. I could refer to speeches made by the extremist labour leaders and also to resolutions of important labour organisations which contain the threat of a general strike. Such threats, I may be told, should not be taken seriously. They may be straws, but they indicate unmistakably which way the wind is blowing. Great Britain had a bitter experience of the general strike of 1926. Apart from the inconvenience caused to the public, it meant a serious set-back to almost every form of industrial activity of the country. Great Britain was able to recover after a long time and with great difficulty, but would industrial India be able to survive the shock of such an upheaval in the labour world? One has only to picture the effects of a general strike to turn away from it. No responsible labour leader can claim that such a strike is likely to help the cause of the workers in the country. Indeed it is very like a boomerang which after injuring others will revert at last to the person who threw it.

Sir, I realise that the Bill which is now before the House has evoked a good deal of hostility throughout the country. Such has been the fate of similar legislation in other countries. In India, however, the hostility is due to the fact that the Bill has unfortunately been engulfed in the whirlpool of politics. That it has emerged in the form in which it is now before the House is, if I may say so with respect, due largely to the tact and energy of the Honourable Member in charge of the Bill in the other place. I have endeavoured to show that this is an economic measure pure and simple and that its provisions are conceived in the best interests of the country as a whole and also of the working classes. I have no doubt that the suspicions which genuinely exist in the minds of some of the trade union organisers in the country will soon be dispelled when it is realised—if indeed there is still any doubt on this point—that it was never the intention of Government to forge a weapon to cripple the growth of the trade union movement of the country, which it has itself tried to encourage, or to penalise the workers for the sake of any section of the community.

Sir, I move. (Applause).

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I rise to oppose the motion now before the House on two grounds: firstly, because of its main policy being to coerce labour and, secondly, on account of the futility of all efforts on my part to modify the Bill so as to make it acceptable to the people. The history of labour legislation in England, Sir, until 1871 has uniformly been against the interests of the labouring class. It began with the Ordinance of Labourers in 1349 addressed to the Sheriff of Kent in the following words:

“Because a great part of the people, and specially of the workmen and servants has now died in this plague, some, seeing the necessity of laws and the scarcity of servants, will not serve unless they receive excessive wages, and others preferring to beg in idleness rather than to seek their livelihood by labour. We, by the unanimous counsel of our prelates and nobles have thought fit to ordain that every man and woman of our realm..... shall be bound to serve and receive wages as in the 20th year of our reign.”

[Mr. Kumar Sankar Ray Chaudhury.]

These ideas found expression in Acts of Parliament in 1349-50 and Justice Finchden in the 40th year of Edward III said :

"The statute was made to advantage the Lords that they should not lack servants. Persons who came within the statute were compelled to work at a rate to be fixed by the justices instead of by reference to the earlier wages paid ; and anyone who asked for more or refused to serve was to be imprisoned and pay double as penalty."

By the time of Edward VI all combinations of workmen or labourers "not to make or do their work but at a certain price or rate" were forbidden.

The system of the statutory fixing of wages by Justices of the Peace was abolished during Elizabeth's reign and gradually, by the close of the 18th century, State control had become superseded by individual bargaining. Workmen who had formerly resisted the State regulation of labour now began to petition Parliament for State regulation, but Parliament made no response to it. The failure of these petitions caused workmen to take the law into their own hands and trade combinations as such started. As soon as this happened, Parliament again intervened and from 1720 to 1795 various Statutes were passed for regulating wages in various trades. Withholding of labour as a means of raising wages was decided as early as the reign of Henry V as civilly unlawful at common law as being in restraint of trade. From early times combinations in restraint of trade were also made illegal conspiracies by Statute and by the Combination Act of 1800 every combination for obtaining an advance in wages, altering the hours of work or decreasing the amount of work or preventing any person employing whomsoever he might think fit to employ or for preventing workmen hiring themselves, or attempting to induce workmen to leave their work was declared illegal, so also attending any meeting called to advance any of these objects.

This Act was repealed in 1825, but new offences of "molestation, intimidation, threats and obstruction" to force or prevent a person accepting or giving employment or joining any association were specifically created and a number of cases were decided on the ground that conspiracies in restraint of trade were offences at common law. At last the Trade Union Act and another Act were passed in 1871 which, with some amendments passed from time to time, have brought the law in England somewhat into line with the law sought to be introduced now in this country. But I venture to submit the conditions in India are not the same as those in England and therefore the state of the law in England, against which loud complaints are being made even in that country, is far less applicable to the circumstances in which India is now placed. In England, Sir, the sovereignty of the people has been established by the adoption of universal franchise. Labour unions are highly organised and labour is possessed of much political power. Trial by jury prevails in England. But in India, Sir, the people have no power and the labourers are depressed, uneducated and oppressed. Much depends also upon who administer the laws, and so long as the judiciary are controlled by the executive, the administration of law is bound to be more rigorous. That, Sir, is the reason why the piece of legislation now before the House will be particularly injurious to the interests of labour.

I shall deal now generally with the provisions of the Bill. Clauses 3 to 7 deal with the reference of disputes to Courts and Boards, but no binding effect is to be given to the decisions arrived at by them. Unless this is done, it will, I venture to submit, tend to bring the differences more acutely to the surface without affording any means of solving them. Whatever might be said about the decisions arrived at by Courts, certainly when a matter is referred to a

Board of Conciliation by both sides means ought to be adopted to penalise the party who would not abide by the decision of such Boards, even if such decisions cannot be specifically enforced on account of their being contracts in the nature of continuous personal service. Strikes and lock-outs are being penalised in various ways and I fail to understand why parties failing to act up to the decision of a Board of their own choice should not be similarly penalised, as has been done successfully in Australia and some other countries.

I now come to the clauses relating to the public utility services. Reserving my remarks about the details of the various clauses, I may for the present say that so long as the public do not intervene in trade disputes and enforce upon the disputing parties what they think to be just and proper, they have no right to penalise the disputants in any way for unwittingly causing any inconvenience to them. It is an elementary principle of jurisprudence, Sir, that every man has a right to act in any way he likes, so long as he does not interfere with similar rights of other people, no matter how other people may indirectly be prejudiced thereby. Clause 16 also, Sir, seems to me to be quite illogical and unreasonable. You can declare certain objects to be illegal, but when you go on to say that every other object beyond these is illegal, all that I can say with due respect, Sir, is that you exceed the bounds of reason. Take as an illustration the case of the operatives of a certain highly technical branch of the Tata Iron Works. They go out in a body and join some other firm who offer them better pay and conditions of service; that is likely to inflict severe general and prolonged hardship upon the community and may compel the Government to take a particular course of action, howsoever vague and indefinite or insignificant it may be. Will their conduct be illegal?

THE HONOURABLE MR. SHAMALDHARI LALL: No.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Clause 18 also in my opinion violates the elementary principles of the rule of majority and freedom of association, and as long as the rule of majority is guiding the destinies of nations I fail to understand why it should fail to do so in case of a certain section only in the society. I need not however dwell on these clauses at any great length as our position with regard to them has been made perfectly clear by our leaders in the other House. The main object of these clauses seems to me to be to prevent labour using strikes as a means of attaining political power. The inclusion of the word "lock-out" is a mere eye-wash and can deceive nobody but the Government. I may here warn the Government in the words of Lord Bryce that

"democracy has no more persistent or insidious foe than the money power, to which it may say as Dante said when he reached, in his journey through Hell, the dwelling of the God of Riches: 'Here we found Wealth, the great Enemy'. That enemy is formidable because he works secretly, by persuasion, or by deceit rather than by force, and so takes men unawares."

If democracy therefore needs protection it is not from labour but the capitalists, and if restrictions are to be put they should be put on them in order to prevent them from exploiting not only labour, but the whole society politically and economically to their advantage.

THE HONOURABLE MR. SHAMALDHARI LALL: I have listened, Sir, with great interest to the speech of my friend the Honourable Mr. Kumar Sankar Ray Chaudhury. I do not think that he is altogether correct in saying that clauses 15 and 16 are directed against the political activities of labourers.

[Mr. Shamaldhari Lall.]

I will remind my Honourable friend of the provisions of the Trade Unions Act in which special provision is made for a political fund. If Government were prepared to agree to a special provision for a political fund, I do not think Government would now try to take away the right of workers to indulge in any form of political activity which is not injurious to the country as a whole. He said, I think, that strikes in Tata's Iron and Steel Works come within the mischief of clause 16 because they would inflict severe general and prolonged hardship upon the community and thereby compel the Government to take or abstain from taking any particular course of action. This, Sir, is not correct because a strike to be illegal under clause 16 must comply with both the conditions which are laid down in that clause ; that is, a strike or a lock-out cannot be illegal unless it has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employers locking out are engaged and is designed or calculated to inflict severe general and prolonged hardship upon the community and thereby to compel the Government to take or abstain from taking any particular course of action.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : They all go out in a body and therefore they fall within the purview of the clause.

THE HONOURABLE MR. SHAMALDHARI LALL : Not unless both the conditions are fulfilled. The first condition would not be fulfilled.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : It says " any other object than ".

THE HONOURABLE MR. SHAMALDHARI LALL : My friend also said that labour was in an oppressed and depressed condition in India and that we could not introduce similar legislation in India as has been done in Great Britain. He will, however, admit that in India the forms of strike action are somewhat similar to the forms of strike action which have been used in the West, and I do not therefore think that there is anything wrong in adopting legislation which has been adopted in England and other countries.

Then, as regards the first part of the Bill, my friend raised the objection that there is no use in having compulsory conciliation or compulsory investigation if the decision of the Courts of Inquiry or the Boards of Conciliation are not binding on the parties. In other words, he was advocating compulsory arbitration. He also said that compulsory arbitration was very successful in Australia. I am not so sure that he is quite correct in this statement, because I think in Australia it has not been such a success as my Honourable friend imagines. The principle of compulsory arbitration is not one which would commend itself to many, and I do not think it would be acceptable either to the employers in the country or to the working classes as a whole. It is much better to get the parties to come to an agreement than to force an agreement on them against their will.

Then again, my friend said that some of the clauses of the Bill are against the principle of freedom of association. This was a point which was raised in another place and I may assure my Honourable friend that this is not correct. The question of freedom of association was very carefully considered by the International Office at Geneva and there is nothing in this Bill which is contrary to any of the principles suggested by the International Labour Office, Geneva, as desirable and necessary for the rights of the workers.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill to make provision for the investigation and settlement of trade disputes, and for certain other purposes, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The question is :

"That clause 2 do stand part of the Bill."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Sir, I beg to move :

"That in sub-clause (g) (i) of clause 2 of the Bill, after the words 'railway service' the words 'or any branch thereof' be added."

My object in moving this amendment is this. The Governor General in Council may not find it necessary to declare the whole of a railway service to be a public utility service. So, option should be given to the Governor General in Council to declare certain branches of it only as falling within the public utility service clause of this Bill. Take for instance the case of railway traffic. That is the department which ought to fall properly within the definition of "public utility service". Other departments may be left out. I submit that the Governor General in Council ought to be given powers to specify certain branches of the railway service only as falling within a public utility service.

I therefore move, Sir.

THE HONOURABLE MR. SHAMALDHARI LALL : Sir, this amendment is a purely drafting one and I think that it is not really necessary because "any railway service" in clause 2 (g) (i) would obviously include any branch thereof, and I do not therefore think I can accept the amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 2 do stand part of the Bill."

Since which.....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
I have got other amendments.

THE HONOURABLE THE PRESIDENT : I am putting this amendment first. Since which an amendment has been moved :

"That in sub-clause (g) (i), after the words 'railway service' the words 'or any branch thereof' be added."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Sir, I beg to move :

"That in sub-clause (i) of clause 2 of the Bill, the words 'with a view to compelling the employer to accept their terms or conditions of or affecting their employment' be added at the end."

[Mr. Kumar Sankar Ray Chaudhury.]

My object in moving this amendment is this. In the definition of "lock-out" provided in sub-clause (e) of clause 2 there are these words at the end, so that if a lock-out takes place not for the purpose of compelling persons employed by him to accept terms or conditions of, or affecting, employment, the lock-out does not come within the operation of this Act. But that distinction is not observed in the case of the definition of the word "strike", so that a strike with whatever object it may be, if it is a concerted walking out, falls within the operation of this Act. I therefore submit that the two definitions ought to be brought into line and a strike, in order to come within the operation of this Act, ought to have as its object the compelling of the employer to accept their terms or conditions of employment.

I therefore move, Sir.

THE HONOURABLE MR. SHAMALDHARI LALI: Sir, I regret I am unable to accept the amendment moved by my Honourable friend. The words which he would like to insert in the definition of "strike" would strike at the very root of clause 16 of the Bill because in some cases a strike is directed not against the employer but against the community as a whole. If these words are inserted, clause 16 would not be of any use, and, as I consider clause 16 necessary, I regret I am unable to accept this amendment.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 2 do stand part of the Bill."

Since which an amendment has been moved:

"That at the end of sub-clause (i) of clause 2 of the Bill the following words be added:

'with a view to compelling the employer to accept their terms or conditions of or affecting their employment.'

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-clause (j) of clause 2 of the Bill, after the words 'between employers and workmen' the words 'or between employers and employers' be inserted."

The object of this amendment is, as I already gave an illustration in my speech on the general discussion, to prevent one employer seducing the workmen of another employer and disputes arising on account of that, and I therefore submit that these words ought to be added to this clause.

THE HONOURABLE SIR BROJENDRA MITTER (Law Member): Sir, this amendment in the definition of "trade dispute" would be meaningless. The Honourable Member says he contemplates a case in which an employer seduces the employees of another employer and thereby a dispute arises between employer and employer. In the first place, such a contingency is not conceivable within the bounds of reason, and secondly, if an employer seduces the employees of another employer, that employer has the ordinary means of getting redress in damages against the seducer. That being so, it does not come strictly within the meaning of "trade dispute". It is not a trade dispute. It becomes an ordinary act of seduction for which the law has already provided.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : The general law provides for all these cases, I submit.

THE HONOURABLE SIR BROJENDRA MITTER : This Bill is intended to settle disputes arising in a trade. That is the fundamental basis of this Bill, and if one employer seduces the workmen of another employer, the ordinary law of seduction comes in ; it is not a trade dispute. That dispute does not arise within the trade.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 2 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (j) of clause 2 of the Bill, after the words 'between employers and workmen' the words 'or between employers and employers' be inserted."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question then is :

"That clause 2 do stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 3.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I do not move my first two amendments* to clause 3 (Nos. 5 and 6), but I move the 7th on the list, part (a). It runs :

"That in the proviso to clause 3 of the Bill, after the words 'separately or conjointly', wherever they occur, the words 'or in the case of the Government being the employer a majority of the workmen employed by it apply' be inserted."

The object of this amendment, Sir, is to provide for the redress of grievances of the employees of Government. Most of the public utility services and other services in this country are run by Government and, if the employees under Government do not have any chance of bringing out their grievances to have them redressed, a large amount of trouble will remain in the country. I therefore propose that provision ought to be made giving an opportunity for Government employees to bring up their grievances to the Courts and Boards.

THE HONOURABLE MR. SHAMALDHARI LALL : Sir, I regret I cannot also accept this amendment moved by the Honourable Mr. Kumar Sankar

*No. 5.—That in clause 3 (a) of the Bill, for the words "the Local Government or the Governor General in Council, as the case may be" the words "such High Court" be substituted.

No. 6.—That in clause 3 (b) of the Bill, for the words "the Local Government or the Governor General in Council, as the case may be" the words "such High Court" be substituted.

[Mr. Shamaldhari Lall.]

Ray Chaudhury. In the first place, owing to the unorganised condition of labour there is the difficulty of knowing whether the majority of the workers do or do not demand a Court or a Board. In the second place, disputes are sometimes of a very frivolous nature which it would not be desirable to submit to a Court of Inquiry or a Board of Conciliation. I regret therefore that I must oppose this amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 3 do stand part of the Bill."

Since which an amendment has been moved :

"That in the proviso to clause 3 of the Bill, after the words 'separately or conjointly', wherever they occur, the words 'or in the case of the Government being the employer a majority of the workmen employed by it apply' be inserted."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I do not move the second part of my amendment* No. 7 to clause 3, as the first part upon which it depends has been rejected.

THE HONOURABLE THE PRESIDENT : The question then is :

"That clause 3 do stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 4.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in sub-clause (1) of clause 4 of the Bill, the words 'or may, if such authority thinks fit, consist of one independent person' be omitted."

My object in bringing this motion is not to place the decision of these disputes in the hands of one person. It ought to be in the hands of more than one.

THE HONOURABLE MR. SHAMALDHARI LALL : I do not think, Sir, that it would be desirable, as proposed by my Honourable friend, to fetter the discretion of the appointing authority in these matters. It is conceivable, and I think that there was an instance in Ahmedabad, where the parties to a dispute may desire to have the matter decided by only one independent person. If the parties desire only one independent person, I do not see why we should by legislation prevent this. I therefore regret I have to oppose this amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 4 do stand part of the Bill."

*That after the word "each" the words "or such" be inserted.

since which an amendment has been moved :

"That in sub-clause (1) of clause 4 of the Bill, the words 'or may, if such authority thinks fit, consist of one independent person' be omitted."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question then is :

"That clause 4 do stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Sir, in view of the decision with regard to clause 4, I do not propose to move my amendments* to clause 6.

Clauses 6 and 7 were added to the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I
do not want to move my amendment† to clause 8.

Clauses 8 and 9 were added to the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I
do not move my amendments‡ to clause 10.

Clauses 10 and 11 were added to the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I
do not move my amendments§ to clause 12 of the Bill.

Clauses 12, 13 and 14 were added to the Bill.

*That in sub-clause (1) of clause 6 of the Bill, the words "or may, if such authority thinks fit, consist of one independent person" be omitted.

That in sub-clause (2) of clause 6 of the Bill, the words "Where the Board consists of more than one person" at the beginning be omitted.

That in sub-clause (2) of clause 6 of the Bill, after the words "the other members shall be" the words "either independent persons or" be omitted.

†That in clause 8 of the Bill, for the words "the Governor General in Council or of a Local Government" the words "the High Court aforesaid" be substituted.

‡That in sub-clause (1) of clause 10 of the Bill, the word "independent", wherever it occurs, be omitted.

That sub-clause (2) of clause 10 of the Bill, be omitted.

§That to clause 12 of the Bill the following sub-clause be added, namely :—

"(3) If the employer who is a party to the dispute fails to comply with the conclusions arrived at by the Court or the Board he shall be punishable with fine extending to Rs. 1,000 or in default with simple imprisonment which may extend to three months."

That to clause 12 of the Bill the following further sub-clause be added, namely :—

"(4) If the workmen who are parties to the dispute fail to comply with the conclusions arrived at by the Court or the Board they shall be punishable with fine extending to Rs. 10 or in default with simple imprisonment which may extend to three weeks."

THE HONOURABLE THE PRESIDENT : Clause 15.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I beg to move :

"That in sub-clause (1) of clause 15 of the Bill, after the words 'in a public utility service' the words 'wilfully and maliciously' be added."

My object in moving this amendment is to bring it into line with the law in England where these words occur. I have taken them from the English Statute. The object of the amendment is this. When a strike takes place there are some persons who foment the strike and there are others who simply avoid going out for fear of being molested or otherwise insulted. I want to protect the second class of people. That is perhaps the reason why those words occur in the English law.

THE HONOURABLE MR. SHAMALDHARI LALL : Sir, if the words suggested in the amendment are inserted, it will make this clause rather difficult to apply. What is penalised is the action of workers in going on a lightning strike in a public utility service and the question of malice does not arise. I therefore do not think I can accept this amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 15 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (1) of clause 15 of the Bill, after the words 'in a public utility service' the words 'wilfully and maliciously' be added."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in sub-clause (1) of clause 15 of the Bill, after the words 'goes on strike in breach of' the words 'the terms of a written' be inserted."

The clause when amended would read thus :

"Any person who, being employed in a public utility service, goes on strike in breach of the terms of a written contract without having given to his employer, etc."

The object of this amendment also is to bring it into line with the English law. The English law provides that the terms of such contracts should be published in a prominent place and there are provisions for penalising the non-compliance of such requirements. My amendment therefore wants to give some protection to the labourers by providing that the contracts should at least be written contracts.

THE HONOURABLE SIR BHUPENDRA NATH MITRA (Industries and Labour Member) : Sir, the Honourable Mr. Ray Chaudhury has been quoting what he thinks to be provisions of the English law. Apparently he has been referred to section 6 (4) of the Trade Disputes and Trade Unions Act, 1927. That section runs as follows :

"If any person employed by a local or other public authority wilfully breaks a contract of service", etc.

There is nothing there about a written contract of service, nor is there anything about notices and things of that sort. We tried to introduce a provision in this Bill which would be more in consonance with Indian conditions. There are not many—in fact there are very few—written contracts of service in India for the simple reason that many of the workmen are illiterate. That being so, we framed a provision which would meet present day conditions in India and to simplify matters we put in a period of notice to be given by the employee before going on a lightning strike and no such period of notice is prescribed in the English law. That being the position, Sir, it would be impossible for Government to accept Mr. Ray Chaudhury's amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 15 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (1) of clause 15 of the Bill, after the words 'goes on strike in breach of' the words 'the terms of a written' be inserted."

The question that I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in sub-clause (1) of clause 15 of the Bill, for the word 'fourteen' the word 'seven' be substituted."

I propose, Sir, that seven days' notice should be required and not 14 days', so that the labourers may get a somewhat shorter period of notice.

THE HONOURABLE MR. SHAMALDHARI LALL : Sir, as I said in my speech in moving for the consideration of this Bill, this clause originally provided for a period of notice of one full month. It was reduced in another place to fourteen days and I think it would defeat the object of this clause if it is now further reduced to seven days, as proposed by my Honourable friend Mr. Ray Chaudhury. The object of this clause is to enable the machinery which is set up in the first part to be put in motion so as to avoid a strike or a lock-out. I think it will be agreed that a period of seven days is much too short to enable the appointing authority to set up the machinery to settle the dispute. I must therefore oppose this amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 15 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (1) of clause 15 of the Bill, for the word 'fourteen' the word 'seven' be substituted."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in sub-clause (1) of clause 15 of the Bill, for the words 'with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both' the following words be substituted, namely :

'with fine which may extend to ten rupees or in default with simple imprisonment which may extend to ten days'."

[Mr. Kumar Sankar Ray Chaudhury.]

The object of my amendment is this. It is for the first time that you are going to make these breaches of contract penal. (*An Honourable Member* : "No".) At least in India you are for the first time going to make these breaches of contract penal, and my submission therefore is that you should introduce this new proposal gradually and instead of making imprisonment the primary punishment to make it a secondary punishment and to impose a fine in the first instance, and if one fails to pay that, then you should make him suffer imprisonment, which at any rate ought to be simple instead of rigorous.

THE HONOURABLE MR. SHAMALDHARI LALL : Sir, my Honourable friend Mr. Ray Chaudhury was not quite correct when he said that breaches of contract were being penalised for the first time in India. The Municipal Acts of most provinces provide a penalty for breaches of contract, and this provision is certainly not new to India. As regards the argument that we should first have a light fine, and then imprisonment, I do not think that the amount of fine which has been suggested by my Honourable friend would be sufficiently deterrent. I do not think that the penalty provided in this clause is excessive and I regret therefore that I cannot accept this amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 15 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (1) of clause 15 of the Bill, for the words 'with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both' the following words be substituted, namely :

'with fine which may extend to ten rupees or in default with simple imprisonment which may extend to ten days'."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in sub-clause (2) of clause 15 of the Bill—

(a) after the words 'locks out' the words 'any of' be inserted."

THE HONOURABLE THE PRESIDENT : Will the Honourable Member move 21 (c) with 21 (a) ? They are connected, and I can put both to the Council together.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : And the other amendment is this :

"(c) for the word 'them' wherever it occurs the word 'him' be substituted."

The object of this amendment is to provide for cases of lock-out of workmen, not in a body, but individually. The clause says :

"Any employer carrying on any public utility service who locks out his workmen in breach of contract without having given them", etc.

My submission is that if individuals are locked out, the employer cannot come within the operation of this section, strictly speaking, and I therefore propose to bring in an individual lock-out.

THE HONOURABLE MR. SHAMALDHARI LALL : Sir, this amendment would be contrary to the definition of "lock-out" in sub-clause (e) of clause 2 of the Bill. It is not the intention of this clause to penalise either an employer who does not give employment to one or two of his workmen nor is it the intention to penalise the workmen if they leave work individually. It is a strike and a lock-out which is penalised here and we must accept the definition of "lock-out" in sub-clause (e).

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Then the definition ought to be amended.

THE HONOURABLE THE PRESIDENT : That clause already stands part of the Bill. The original question was :

"That clause 15 do stand part of the Bill."

Since which amendments have been moved :

"That in sub-clause (2) after the words 'locks out' the words 'any of' be inserted and for the word 'them' wherever it occurs the word 'him' be substituted."

The question I have to put is that those amendments be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, in view of the fate of other similar amendments with regard to clause 15, sub-clause (1), I do not propose to move amendment No. 21 (b) proposing the insertion of the words "of the terms of a written" after the words "in breach of".

THE HONOURABLE THE PRESIDENT : Is the Honourable Member moving 21 (d) ?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Nor 21 (d)* in view of the fate of other amendments previously introduced.

THE HONOURABLE THE PRESIDENT : Is the Honourable Member moving amendment No. 22 ?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Yes, Sir, I want to move that amendment. I move :

"That after sub-clause (5) of clause 15 of the Bill the following proviso be added, namely : 'Provided that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment'."

The object of this amendment is to bring clauses 15 and 17 into line. Clause 17 in providing for an illegal strike provides that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment. If such a clause is necessary in the case of clauses 16 and 17, I do not see why it should not be inserted in clause 15 also. The object of my amendment is to prevent those persons who simply keep out through fear of being molested

*For the words "to imprisonment which may extend to one month or to a fine which may extend to one thousand rupees, or with both" the words "to a fine which may extend to one thousand rupees or in default with simple imprisonment which may extend to one month" be substituted.

[Mr. Kumar Sankar Ray Chaudhury.]

from being hauled up under these sections. I therefore submit that these two clauses should be made similar by the introduction of this proviso at the end of clause 15.

THE HONOURABLE SIR BHUPENDRA NATH MITRA : Sir, the Honourable Mr. Kumar Sankar Ray Chaudhury has misapprehended the purport of clause 15 and clause 17 and out of that misapprehension he has attempted to draw an analogy between the two clauses. The object of clause 15 is to prevent certain strikes and lock-outs in utility services. It therefore prescribes that persons employed in public utility services are not to go out on strike in breach of contract without giving a prescribed notice to their employer. Now anybody who goes on strike, that is, who stops his work, comes within the mischief of that provision. The mischief of clauses 16 and 17 is quite different. That being the position, Sir, it is not possible for Government to accept the amendment moved by the Honourable Mr. Kumar Sankar Ray Chaudhury.

THE HONOURABLE THE PRESIDENT : The original question was :

“ That clause 15 do stand part of the Bill.”

Since which an amendment has been moved :

“ That after sub-clause (5) of clause 15 of the Bill the following proviso be added, namely : ‘ Provided that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment ’.”

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question then is :

“ That clause 15 do stand part of the Bill.”

The motion was adopted.

Clause 15 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 16.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

“ That in sub-clause (1) of clause 16 of the Bill, the letters ‘a’ and ‘b’ and the brackets enclosing them be omitted.”

My object in moving this amendment is to make the position clear that, unless a strike comes within the apprehension of both these sections, it cannot fall within the operation of clause 17. The separation of the two paragraphs, although they are coupled with the conjunction “and”, leaves some doubt in the mind of a layman that perhaps they are separate and if you come within any one of these you are liable to be hauled up. My object is to make it perfectly clear by making these two clauses one and the same so that a strike in order to come within the operation of this section must be within the comprehension of both the clauses.

THE HONOURABLE SIR BROJENDRA MITTER : Sir, the amendment proposed is a drafting amendment. The Honourable Member says that if the

two were jumbled together in one paragraph that would make the position clear. On the contrary, Sir, as every draftsman knows, if there are different elements to constitute one situation, it is very much better that these different elements should be kept separate and should be added by a conjunction, as has been done here. If they are to be jumbled together, then it would be difficult of interpretation and confusion would arise, and therefore from a drafting point of view what has been done in the Bill is the proper thing.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 16 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (1) of clause 16 of the Bill, the letters 'a' and 'b' and the brackets enclosing them be omitted."

The question I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in sub-clause (1) of clause 16 of the Bill, for the word 'compel' the word 'coerce' be substituted."

I also move the other two amendments which are of a similar nature :

"That in sub-clause (4) of clause 16, for the word 'compel' the word 'coerce' be substituted."

"That in sub-clause (4) of clause 16, for the word 'compulsion' the word 'coercion' be substituted."

Also

"That in sub-clause (4) of clause 16, for the word 'might' the word 'ought' be substituted."

These are words that figure in the English Statute and I submit that the word "compelled" is more metaphysical than the word "coerced", and therefore the word "coerced" ought to be substituted as it finds a place in the English Statute. I want a physical coercion, not a metaphysical compulsion.

THE HONOURABLE SIR BROJENDRA MITTER : Sir, this again is a drafting amendment. In the Select Committee these two words were considered very carefully. The Honourable Member has said his object is to bring in physical coercion. Well, it is very difficult to conceive how you can physically coerce the Government unless it be by an armed revolution. How can you physically coerce Government by means of a strike? The word "compel" connotes moral pressure, which is conceivable as the result of a strike. That is why the word "compel" was preferred in Select Committee and in these circumstances the amendment is not acceptable.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 16 do stand part of the Bill."

Since which amendments have been moved :

"That in sub-clauses (1) and (4) for the word 'compel' the word 'coerce' be substituted."

"That in sub-clause (4) for the word 'compulsion' the word 'coercion' be substituted, and for the word 'might' the word 'ought' be substituted."

[The Honourable the President.]

The question I have to put is that those amendments be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question then is :

"That clause 16 do stand part of the Bill."

The motion was adopted.

Clause 16 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 17.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in sub-clause (1) of clause 17 of the Bill, after the words 'three months or' the words 'in default' be inserted."

The object of this amendment is similar to the one which I moved with regard to the other penal clause, namely, to provide a pecuniary punishment in the first instance and personal coercion only in the next instance.

I therefore move, Sir.

THE HONOURABLE SIR BHUPENDRA NATH MITRA : Sir, it is not possible for Government to accept the amendment. This is a matter in which discretion must be left to the Magistrate. If the offence is a first offence, possibly the Magistrate will punish the culprit with only a fine ; but if it is a second offence or a third offence, naturally the Magistrate may think it desirable that the punishment should be one of simple imprisonment. That being so, Sir, it seems only reasonable that the Magistrate should have full discretion in the matter.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 17 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (1), after the words 'three months or' the words 'in default' be inserted."

The question I have to put is that that amendment be made.

The motion was negatived.

— THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I do not propose to move the other amendment,* Sir.

THE HONOURABLE THE PRESIDENT : The question then is :

"That clause 17 do stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

"That clause 18 do stand part of the Bill."

The motion was adopted.

Clause 18 was added to the Bill.

* That at the end of the sub-clause the words "or with both" be omitted.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to move the following amendment :

“That after clause 18 of the Bill the following new clause be added and the subsequent clauses be renumbered accordingly :

‘ 19. Where any trade dispute is under enquiry or investigation by a Court or Board, any person, who with a view to compel any workman employed by an employer who is a party to the dispute to abstain from doing or to do any act which such workman has a legal right to do or abstain from doing wrongfully and without legal authority—

(a) persistently follows such workman from place to place ; or

(b) watches or besets the house or other place where such workman resides or works or carries on business or happens to be or the approach to such house or place, shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two hundred rupees ’.”

In support of my amendment, Sir, I want to be very brief. The Trade Disputes Bill cannot be complete without a clause on picketing inserted in it. Picketing is a harassment for honest and willing workers and its provision should find a legitimate place in this Bill. The whole object of this Bill will not be served if picketing is allowed when any trade dispute is under inquiry or investigation by a Court or Board. My proposal therefore is that picketing should be rendered illegal. The Honourable Sir Bhupendra Nath Mitra in another place gave a quotation from a publication of the International Labour Office. I cite that quotation :

“The right to strike implied that those willing to work should be protected by making picketing illegal.”

I do not want to dwell long on my amendment. I have seen in many places that picketing is done to force willing people to refrain from going to work, and the absence of any adequate law stopping picketing has sometimes resulted in serious fights and riots. With these observations, Sir, I commend the amendment to the House.

THE HONOURABLE SIR BHUPENDRA NATH MITRA : Sir, the Honourable Rai Bahadur Lala Ram Saran Das was perfectly correct when he said that it is reasonable to provide against picketing in a Bill of the nature now before the House. At the same time, picketing with the object of intimidating people is already penalised in the Indian Penal Code. A further provision directed against what may be called peaceful picketing did not form part of the original Bill as introduced by Government in another place. Certain suggestions in this connection were placed before the Select Committee at a late stage in their proceedings owing to a supplementary opinion which came from the Bombay Government. Now, Sir, it is difficult to say whether this particular amendment will meet the requirements of the Bombay Government. In any case the matter is one which requires careful consideration and there has been no opportunity for giving it that careful consideration which it requires. It has not been possible, for example, to obtain the opinions of other Local Governments. In these circumstances it has been considered most suitable that this particular matter should not be proceeded with at the present stage but that it should be further explored and any necessary provision should be brought in in the first amending Bill. I hope that explanation will satisfy the Honourable Rai Bahadur Lala Ram Saran Das and he will be kind enough not to press his amendment at this stage.

THE HONOURABLE THE PRESIDENT : The question is :

“ That after clause 18 of the Bill the following clause be inserted :

‘ 19. Where any trade dispute is under enquiry or investigation by a Court or Board, any person, who with a view to compel any workman employed by an employer who is a party to the dispute to abstain from doing or to do any act which such workman has a legal right to do or abstain from doing wrongfully and without legal authority—

(a) persistently follows such workman from place to place : or

(b) watches or besets the house or other place where such workman resides or works or carries on business or happens to be or the approach to such house or place, shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two hundred rupees.’ ”

The motion was negatived.

Clause 19 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. SHAMALDHARI LALL : Sir, I move that the Bill be passed.

It is not necessary to make another speech on this occasion and I would therefore only put this motion to the House.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to make provision for the investigation and settlement of trade disputes and for certain other purposes, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

ELECTIONS TO THE PANEL FOR THE STANDING COMMITTEE ON ROADS.

THE HONOURABLE THE PRESIDENT : For the panel to the Standing Committee on Roads the following nominations have been received :

The Honourable Mr. Mahmood Suhrawardy.

The Honourable Shah Muhammad Zubair.

The Honourable Sardar Charanjit Singh.

The Honourable Mian Ali Baksh Muhammad Hussain.

The Honourable Rai Bahadur Lala Ram Saran Das.

The Honourable Srijut Rama Prasad Mookerjee.

As there are six vacancies on the panel, I have to declare those six Honourable Members to be duly elected.

MESSAGE FROM HIS EXCELLENCY THE VICEROY.

THE HONOURABLE THE PRESIDENT : I have a Message for the Council from His Excellency the Viceroy and Governor General :

"In pursuance of sub-section (3) of section 63A of the Government of India Act, I, Edward Frederick Lindley, Baron Irwin, hereby require the attendance of the Members of the Council of State in the Legislative Assembly Chamber at 11 o'clock on Friday, the 12th April, 1929.

(Signed) IRWIN,

Viceroy and Governor General."

(The Message was received by the Members of the Council standing.)

THE HONOURABLE THE PRESIDENT : As I understand that Government has no further business to put before the Council, the Council will now stand adjourned *sine die*.

The Council then adjourned *sine die*.