

* The Factories (Second Amendment) Bill

The Honourable Dr. B. R. Ambedkar (Labour Member):
Sir, I move :

“That the Bill further to amend the Factories Act, 1934, as reported by the Select Committee, be taken into consideration”.

Sir, the report of the Select Committee has been before the House for quite a long time. I have no doubt that Honourable Members who take interest in this subject have read and digested what the Select Committee has to say. I will therefore do no more than to draw attention of the House to some of the fundamental changes which the Select Committee has made in the Bill as introduced by me. Sir, the select Committee has altogether made five important and fundamental changes. The first change that the Select Committee has made is to save the rights to any holidays with pay that might accrue to a workman, otherwise than under the Act, such as holidays that may be permissible under other enactments or holidays that may be permissible under an award or an agreement or a contract of service. That provision did not exist in the original Bill. But it has now been introduced by the addition of sub-clause (2) to section 49-A. The second change which the select committee has made is to extend the benefit of the holidays with pay to children which again was not found in the original Bill as it was introduced to this House. Not only the Select Committee has extended the provisions of the Bill to a child but the holidays themselves have been extended in number. For a workman the holidays are only seven days. But to a child, the holidays shall be 14 days. Honourable members will find that in the new amendment to section 49-B. Then, Sir, the House will remember that when the Bill was introduced it did not contain any provisions to cover cases of workman who was discharged

* Legislative Assembly Debates (Central), Vol. III, 29th March 1945, pp. 2270-71.

before he had earned his holiday or had resigned his post and therefore did not get his holiday. I said that that was a matter which might be left to be subsequently decided in such a manner as we thought best. The Select Committee thought that it was so important a case that provision ought to be introduced in the Bill and accordingly a new provision has been introduced.

Another new principle which has been introduced in the Bill is the power given to the Inspector to act on behalf of a worker who has not been able to get his holidays or has not been able to get the pay which he is entitled to obtain as a result of the holiday. The Select Committee realised that it was no use leaving the worker to his resources in order to prosecute his employer either criminally or civilly in order to secure the benefit which the Act gives him and which the employer has failed to give him. Therefore it was the duty of the State to take upon itself the responsibility of seeing that these benefits were secured to the workmen. This has now been done by the conferment of the power on the Inspector to act on behalf of a worker.

Another important change which has been made by the select Committee is with regard to the making of the rules. Honourable members will recollect that in the original Bill, the power for making rules under the Act in order to give effect to the provisions was left to the provinces. Now, it was felt in the Select Committee that if the rule-making power was left to the provinces the different provinces might make different set of rules, and consequently there might be variety of provisions under the same Act. That undoubtedly would have very serious consequences on the different industries. One industry in one province may be subjected to one set of rules, a similar industry in another province may be subjected to a different set of rules and it would introduce a very undesirable element in the competitive character of the industry taking India as a whole. The Select Committee therefore recommended that the Government of India should have the authority to give directions to the provinces in the matter of making rules so that the desire or the object of securing uniformity in these rules would be achieved. These are, Sir, some of the fundamental principles which have been incorporated in the Bill as a result of the deliberations in the Select Committee. The rest of the provisions are

more or less as they were in the original Bill and call for no comment. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandara Datta): Motion moved.

“ That the Bill further to amend the Factories Act, 1934, as reported by the Select Committee, be taken into consideration.”

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*** The Honourable Dr. B. R. Ambedkar :** I do not think it is necessary for me to deal with each and every point that has been raised by Honourable Members who have spoken on this motion, particularly because I find that every point which has been made by honourable Members is covered by an amendment. Consequently there will be a duplication of debate, which I do not propose to undertake. I will say what I have to say on the various points when the appropriate amendments are moved.

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† The Honourable Dr. B.R. Ambedkar : Sir, I am afraid it is not possible for me to accept either of the amendments which have been proposed by Mr. Joshi or Prof. Ranga. I quite understand that a workman who has put in the requisite amount of service should be entitled to get his holidays irrespective of the consideration as to whether he has served one employer or more than one employer. But two facts have to be taken into consideration. The first is the question of administrative feasibility. I am quite satisfied that unless we have a sort of an insurance system where the payments to be made by employers are de-personalised and fastened upon some fund, it would not be possible to work the provisions, if I were to accept the amendments proposed by my Honourable friends. If, for instance, a scheme of health insurance were to come into operation, than we would have the basis of a system of cards, stamps and the other administrative machinery for insurance purposes, and then an amendment of the sort which has been moved would be possible to accept. But for the present, I am sorry to say that I cannot see any way to accept this amendment.

* Legislative Assembly Debates (Central), Vol. III, 29th March 1945, p. 2276.

† *Ibid.*, p. 2280.

I should also like to submit that it was the desire of the House or of the Select Committee that a date should be fixed for the Bill to come into force. As my Honourable friends will recall, we had in the original Bill left the date for the operation of the Bill to the Provincial Governments. But we have departed from that procedure and we have now accepted the principle that this Bill itself should lay down the date on which it shall come into force; and the date as fixed in the Bill is the first day of January 1946. It is therefore quite clear that all administrative machinery that is necessary for the giving effect to this Bill must be brought into being within or before the 1st January, 1946 ; and I must confess my utter inability to comprehend the possibility either of the Government of India or of the Provincial Governments being in a position to set into operation the machinery that would be necessary to give effect to the provisions contained in the two amendments. As I said, I have sympathy but the administrative difficulties are so great that I must at this stage oppose the amendment.

Prof. N. G. Ranga : May I make one suggestion, if it is agreeable to the Government-not otherwise ? In the first line, suppose we drop the words “or different managements” in the amendment proposed and merely say “or factories belonging to the same management” ?

***The Honourable Dr. B. R. Ambedkar :** I find difficulty in all that: I have paid attention to that.

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*** The Honourable Dr. B. R. Ambedkar** (Labour Member): Mr. President, I am not sure that those who have moved this amendment and supported it have much justification on their side. We always take as our standard measure the Conventions passed at the International Labour Conferences and the Honourable House will remember that the International Labour Conference in 1936, when it took up this question, fixed six days as the measure of holidays that ought to be allowed. Looking at the subject from that point of view, I am not prepared to accept nor can anybody say that the Bill as introduced falls short of the standard prescribed by the International Labour Conference. On my side I must also mention another difficulty. The Honourable House will

* Legislative Assembly Debates (Central), Vol. IV, 2nd April 1945, pp. 2315-16.

remember that this subject of labour legislation falls in the field of Concurrent Legislation. The administrative responsibility for carrying out these measures entirely falls on the Provincial Governments, in which the executive authority for administration is vested by the Constitution. Having regard to that, there has been established a convention, viz., that as far as this Concurrent field of legislation goes, whatever measures are introduced, should have more or less the concurrence of the Provincial Governments. And I would like to tell the House that the period that is fixed in the Bill was fixed after consultation with the provinces. However, I am prepared to accept the amendment and I would very much like to state the reason which has prevailed upon me in order to accept this amendment. The reason which has prevailed upon me is the geographical reason. I realise that the centres of industry and the centres of population are very vastly divided by long distances. A factory is situated in Bombay, the labourer lives either in the U. P. or C. P. and has to travel long distances in order to employ himself in a useful occupation. Having regard to these circumstances, viz., that he has to travel long distances, I think that perhaps a small departure may be made from the original proposal that stands in the Bill. It is therefore on that ground that I am prepared to accept this amendment. At the same time, I must stipulate one other condition. I find that there is another amendment standing in the name of Prof. Ranga and Mrs. Subbarayan, the object of which is to reintroduce the words "at least", which were omitted by the Select Committee. Now, the introduction of these words "at least" would create disharmony and I must say that I regard uniformity of principle in a matter of this kind to be of fundamental importance and my position therefore is that if those who have tabled this amendment will agree to drop it. I on my part, am prepared to accept the amendment for ten days.

Prof. N. G. Ranga (Guntur cum Nellore: Non-Muhammedan Rural): We are prepared to drop the other amendment, for the present.

Mr. President (The Honourable Sir Abdur Rahim): You are not going to press the motion ?

Prof. N. G. Ranga : Not the other amendment, Sir.

Mr. President (The Honourable Sir Abdur Rahim): The question is :

"That in clause 3 of the Bill, in sub-sections (I) and (2) of the proposed section 49B for the word 'seven' the word 'ten' be inserted".

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : There has to be one consequential amendment that in sub-clause (2) the word 'ten' shall be substituted for 'seven'.

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member would do well to put down a proper amendment. That, I think, can be done afterwards.

The Honourable Dr. B. R. Ambedkar : At the end of sub-section (2) in the last line, the word 'ten' shall be substituted for 'seven'.

Mr. President (The Honourable Sir Abdur Rahim) : I think there ought to be a formal amendment.

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* **The Honourable Dr. B. R. Ambedkar :** Sir, I regret I cannot accept this amendment. My Honourable friend, Mr. Inskip, stated that there was no definition of sickness. I wish we could define sickness ; I have searched for a definition in the Health Insurance Act, and I find that there is no definition of sickness for the simple reason that sickness cannot be defined. It is a matter of certification. If a medical person says that a certain person is sick, then everybody has got to accept that definition. If my Honourable friend's contention was that certificate should be defined in a proper manner, I could have understood his complaint. But on that ground I submit he has no ground for complaint, because we propose to make rules in which persons who will have the authority to certify will be properly laid down : their qualifications will be prescribed. Consequently the fear that doctors who have no practice and who generally live on giving false certificates will find no place in this, because the rules, I hope, will be so framed that that sort of contingency will be altogether eliminated. The difficulty I find in accepting this amendment is this : my Honourable friend says that certificates should not suffice for sickness but that the employer should be allowed to sit in judgment, even when a certificate has been obtained, whether, notwithstanding the certificate, he would grant leave or he would not grant leave. I must say that that is a position to which Government cannot be a party. Government cannot allow an employer to say that notwithstanding the certificate given by a doctor whose

* Legislative Assembly Debates (Central), Vol. IV, 2nd April 1945, p.2318.

qualifications are in accordance with the rules we have made, it must still be left a matter for the employer to decide. I think that would be placing too much authority in the hands of the employers ; and for this reason I am not disposed to accept this amendment.

Another thing my Honourable friend remarked is this, that we have fixed a limit of ninety days for all the three contingencies—sickness, accident and authorised leave. Consequently in practice any malingering on the part of the employee cannot be carried on indefinitely; because for the three contingencies we have fixed a limit of ninety days ; and if the limit of ninety days is exceeded, then he automatically becomes disqualified for getting the benefit under the Act. Having regard to these circumstances, I must oppose this amendment.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

“ That in clause 3 of the Bill, in the Explanation at the end of the proposed section 49B for the words ‘ sickness, accident or authorised leave’ the words ‘authorised leave granted on account of sickness, accident or for compassionate reasons’ be substituted.”

The motion was negatived.

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