

* Industrial Employment (Standing Orders) Bill

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

“That the Bill to require employers in industrial establishments formally to define conditions of employment under them be taken into consideration.

Sir, this is a very simple measure and, so far as I can see, is a non-controversial measure. The object of the Bill is to have the terms and conditions should be certified by a competent officer appointed for that purpose, and that it should form a sort of register of what the terms and conditions of employment are in any particular establishment. The Bill seeks to make a difference between mere registration of the terms and conditions of employment and adjudication upon the fairness and reasonableness of those terms and conditions of employment. This Bill does not touch the question of adjudication of the fairness and reasonableness of the terms of employment. Every employer is free under this Bill to fix whatever terms and conditions of employment he may like to fix. All that the Bill requires is this, that he should, after framing the terms and conditions of employment applicable to workmen employed in his establishment submit them to an officer employed by the Government and that the officer will take a note of those terms and conditions, enter them in his register, and this register will be the basis of determining what actually the terms and conditions were. In other words, if I may put it differently, the Bill is merely enacting what might be called a rule of evidence, so that if this Bill passes, if there is any dispute as to what the terms and conditions were with regard to any particular establishment as between the employer and the workman, the evidence that the law will admit will be the documentary evidence, a certified copy furnished to the employer by the certifying officer, and

*Legislative Assembly Debates (Central), Vol. V,-No. 9, 12th April 1946, p. 3914.

that oral evidence will not be permitted. If the House will refer to clause 12 of this Bill they will see this point made abundantly clear. It says :

“No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court.”

That is really the purport of this Bill. As I said, there is no new principle involved in it. Such an Act exists in the province of Bombay already and all that the Bill proposes to do is to extend the provisions of that Act to other provinces in India.

The Bill has several clauses which are mere matters of procedure, defining how the certifying officer shall proceed in the matter when he receives the text of the terms and conditions from the employer. He is required to give notice to the workman employed in that establishment and to hear them before giving any certificate. The employer, if he finds that the terms and conditions he has proposed are perfectly in accord with the provisions of this Act and the certifying officer does not issue to him a certificate, he has the right also to go to an appellate court and get the decision of the certifying officer reversed.

I do not think it necessary for me to take the time of the House, especially when we are so short of it, to dilate upon the different clauses in this Bill. But I think it necessary for me to state why the Government thinks that this Bill is not only necessary but is also very urgent. This Bill is very integrally related to another measure which Government has in contemplation and that relates to the Health Insurance, which the Government proposes to bring forth at the next Session. The Health Bill gives an employee certain rights with regard to benefits ; it levies certain obligations upon them to make contributions to the Health Insurance Fund. These rights and obligations are very integrally related to, for instance, the wages which the employee would be drawing in different establishments. Now, disputes may arise as to the contribution that an employee is bound to pay to the fund. Disputes may arise as to what benefit an employee is entitled to draw under the insurance fund. In order that such disputes may be settled finally, Government thinks it necessary that the terms and conditions of employees should be certified and laid down in a document, so that when the dispute arises we will have before us unimpeachable evidence as to the wages and

other conditions by which the employee is bound. In fact it is felt that it would be very difficult to work the health insurance fund unless and until we have placed beyond cavil, beyond doubt and beyond dispute certain questions relating to the employment of the workers in the industrial establishments.

With these observations I move that this Bill be taken into consideration.

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***The Honourable Dr. B.R. Ambedkar :** Mr. President, I did not think that my motion that the Bill be passed would invoke the sort of debate that we have heard just now. I cannot help saying that I was particularly amazed at the speech of my Honourable friend Dr. Sir Zia Uddin Ahmad and I have a sort of fear that his speech was due to the fact that he probably had eaten something which was indigestible for his lunch, because as we know Dr. Zia Uddin Ahmad has been a most persistent advocate of labour legislation and more than once he has on the floor of the House urged upon me the necessity of bringing in labour legislation of far greater magnitude and without any delay. Today he has made a speech of just the opposite tenor. But I am glad to see that his observations on that point have been so completely answered by my friend Mr. Siddiqi that I think I would not be justified in taking the House over that matter again.

There is only one point which he made to which I would like to give a reply. He said that he had not sufficient notice about this Bill. The position with regard to that matter stands as follows. The agenda on which this Bill was placed was circulated to the Honourable Members on Friday, the 6th instant. On that agenda this Bill was placed as the first item of Legislative Business and not only it was placed as part of the Legislative Business but there was added a footnote in which it was definitely stated that this item would be taken on Friday, the 12th April, 1946, as the first item of Legislative Business. I do not know whether six days notice can be regarded as insufficient.

So far as the Bill itself is concerned I had hoped that I should be able to get it through within 15 minutes but we have now practically spent nearly one hour and five minutes in dealing with this Bill and

*Legislative Assembly Debates (Central), Vol. V-No. 9, 12th April 1946, p. 3926.

I cannot therefore see how anybody could say that I am trying to rush this measure through the House.

With regard to the point made by my friend, Mr. Inskipt, that in this matter they had not had sufficient notice to consult their clients, I cannot help saying that he has entirely misunderstood the previous history, or forgotten the previous history of this Bill. This Bill was placed before the Standing Labour Committee in the year 1944. The Committee was completely unanimous and the Committee suggested that the Bill was so necessary and that it was so non-contentious that Government might as well pass the Bill in the form of an ordinance, which we did not do. Thereafter, the matter was again discussed in the Indian Labour Conference.

Another point which he made was that the Bill, as it is now presented to the House, was not in the same form in which it was placed before the Labour Conference. I would like to tell him that it is entirely a mistaken view. Government has made no changes whatsoever in the form of the Bill as it was placed before the Tripartite Conference.

My friend, Professor" Ranga, raised a question regarding the applicability of this Bill to smaller factories. My friend, Mr. Gwilt, also emphasized it and said that I should give an explanation. Anyone who read sub-clause (3) of clause 1 would not certainly be labouring under any such misapprehension that the Bill is intended only to industrial establishments wherein one hundred or more workmen are employed, because that clause itself states that Government will have the power and the authority to extend this "to such class or classes of other industrial establishments as the appropriate Government may from time to time, by notification in the Official Gazette, specify in this behalf." Government, therefore, has retained the power in its own hands to make it applicable to industrial establishments which may have less than hundred people. Therefore, any fear which is entertained on the ground that this is intended primarily to apply to industrial establishments wherein one hundred or more persons are employed and that consequently other establishments employing lesser number of people would be excluded, is a fear which I submit is completely unfounded.

Diwan Chaman Lall : May I intervene for a minute ? On page 2, in clause 2(e) (ii), under definition of industrial establishment it is stated that "it means a factory as defined in clause (j) of section 2 of the

Factories Act". I take it that factory as defined there is covered by the Factories Act. But a factory of twenty people will not be covered by the definition of "industrial establishment" given here.

The Honourable Dr. B. R. Ambedkar : But Government may apply it even to a factory having twenty persons.

Diwan Chaman Lall : It may ; but it does not mean that it should.

The Honourable Dr. B.R. Ambedkar : We are starting with those having one hundred.

Mr. Leslie Gwilt: Why not start with less ?

The Honourable Dr. B.R. Ambedkar : There is nothing to prevent Government from starting with even a lesser number.

Diwan Chaman Lall : If the Indian Factories Act can apply to an establishment where there are only twenty people employed, why should not this also apply similarly to an industrial establishment under this Bill ?

The Honourable Dr. B. R. Ambedkar : As it is, there is nothing under the Act which will not enable Government to impose the obligation upon even factories employing twenty persons. We thought fit to make a beginning. Further, the administrative machinery may probably have to be very vast if it were to apply to every factory. The number of certifying officers and appellate authorities may be too many and no Provincial Government may be in a position to provide that administrative machinery. It is necessary to make a beginning on a modest scale, reserving to ourselves the power to extend it to all those where such extension may be necessary.

I do not think there is any other point which was made in the course of the speeches on this motion which calls for explanation.

Sir, I move :

Mr. President : The question is :

"That the Bill, as amended, be passed."

The motion was adopted.