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*ON THE INDUSTRIAL DISPUTES BILL

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, I rise to oppose the first reading of this Bill. In rising to speak I am very much conscious of the handicaps under which I am labouring. I regret I have not been here to listen to the speeches that have been made by my predecessors who have spoken on the Bill. It is a misfortune which unfortunately I have not been able to escape. My work elsewhere has not permitted me to be here and to benefit myself by listening to points made by the previous speakers. I am also labouring under the handicap that so many speakers have preceded me and the debate has gone on for such a long time that I am wondering whether there is anything left for me to say at this fag end. But I take courage, if I may say so, that in a Bill of such a character, so vast, so extensive—it has 84 clauses—there might be much on which even a member rising to speak at the fag end may find something to say. My honourable friend Mr. Jamnadas Mehta, I think, very correctly described that this Bill was of such a vast character that even if Sheshashayi were to undertake to write about it and even if the ocean was available as ink and the earth as paper to write upon, he would probably not find it sufficient to cover the whole Bill. Knowing these limitations I propose to be very concise.

In order that this Bill may be understood, I think it is necessary to read its provisions in the light of the previous legislation. I believe and I think it will be readily agreed that the importance of the clauses of this Bill will not be apparent unless we compare and contrast its provisions with the provisions of the previous legislation. The last clause of the Bill makes it amply clear that this Bill is intended to replace the Bombay Trade Disputes Conciliation Act of 1934, and the question therefore that primarily arises for consideration is whether any case has been made out by the Prime Minister, who is in charge of this measure, for the change which he is now introducing by this Bill. The Act of 1934 was intended to provide a machinery for conciliation. The principle of the Act of 1934 was voluntary conciliation. Now this Bill introduces a change, namely,

*B.L.A. Debates, Vol. 4, pp. 1330-59, dated 15th September 1938.

that the conciliation shall be compulsory, and the question, I submit, that arises for the consideration of the House is whether any case has been made out for altering the voluntary provision of the Act of 1934 and giving it a compulsory character.

Now, taking the year 1934 and the conditions as they were in that year as the standard by which to measure the necessity for introducing compulsion, I desire to refer to certain facts which are relevant and important. The first fact that I would like to draw the attention of the House to is this, that the original Bill introduced by the Honourable Sir Robert Bell in 1934, which subsequently became the Act, contained provisions for compulsory conciliation. But at the time of the introduction of the Bill, at its very initial stage, the mover of that Bill was impressed by the fact that the circumstances existing in the year 1934 did not require compulsion in the matter of conciliation, and consequently, he of his own accord, at the very outset, at the first reading of the Bill, in his opening speech made a proposal that he was going to bring forward an amendment in order to substitute the word "may" for the word "shall". That, I submit, is proof of the fact that in 1934 the Honourable Sir Robert Bell did not feel any necessity for introducing compulsion in the matter of conciliation. There was in the House at the time when that Bill was introduced my honourable friend Mr. Saklatvala, who represented the Bombay Millowners. He too in the year 1934 did not demand compulsion in the matter of conciliation. On the other hand, in the speech which be delivered at the first reading of the Bill, he was lukewarm in his support of the Bill, for he went to the length of saying that the Bill normally was unnecesary. That was the view point that he had taken, and with regard to conciliation, he did not certainly press or demand any compulsion in the matter at all. What was happened between the year 1934 and the year 1938 which compels this House to alter the provisions of that Act, changing voluntary conciliation into compulsory conciliation ?

Now, in order to make out a case for compulsion, the Prime Minister started by giving us certain figures of strikes that have taken place in this country, in order to make out that the strikes that have taken place in this country, were so frequent and of such a grave character that the necessity had now arisen for changing the voluntary provision into a compulsory one. Now I have examined the figures of the strikes, the number of work-people involved and the number of working days lost. I have no hesitation in saying that I stand unconvinced by what the Honourable the Prime Minister seemed to say as a result of the figures relating to strikes. Turning our attention to the strikes that have taken place in the City of Bombay, I have here the March number of the *Labour Gazette* published by the Labour Office. On page 541 this number gives the figures of the strikes that have taken place in the Province of Bombay. From 1921 to 1937, it gives in column one the number of trade disputes. Secondly, it

gives the number of work-people involved ; and, thirdly, it gives the number of working days lost. Running one's eyes over these figures, I am sure any one would be able to see for himself that the industrial disputes far from increasing are diminishing year after year. For instance, in the year 1921, the industrial disputes in Bombay were 103 ; in 1922, there were 143 ; in 1923, there were 109 ; and between 1924 and 1927, they had fallen to 50, a drop of 50 per cent. Then, you get 1928 and the figure rises to 144. From 1929 to practically 1937, it varies between 88 and 53. I admit that the number of strikes that have taken place is no criterion for judging the amount of disturbance and dislocation that might have taken place in the industry. I find from the figures which are given in this table that there are cases in which although the number of strikes is small, the number of people involved is comparatively great and the number of hours lost are also comparatively great. But then taking the number of working days lost as the criterion, which is the only criterion, I find that the worst year was the year 1928 which resulted in 24 million working days being lost. The second worse year was 1925 when 11 million working days were lost ; and the third one was 1929 when 8 million working days were lost. But once you proceed further, beyond the year 1929, it will be found that the number of work-people involved and the number of working days lost and the number of strikes that have taken place after 1934, there is certainly nothing in the situation, so far as I am able to see, which can be said to create a situation which would cause anxiety to any Member of Government. The only bad year seems to be 1937 when 897 working days were lost. That is nothing as compared to the previous year. I am told that this happened because there was a general strike in the City of Ahmedabad which lasted for 15 days. My first submission, therefore, is this. No case has been made out by Government and by the Honourable the Prime Minister which would induce, at any rate, this part of the House, at any rate induce me to consent to so radical a change in the provisions of the Act of 1934. So much for the necessity of introducing compulsory conciliation.

Turning to the other provisions of the Bill, the provision to which I wish to advert are the provisions relating to strikes which undoubtedly are the most important, which this part of the House, at any rate the party I represent, stoutly oppose. Now, the Bill makes strikes under certain circumstances illegal. The provisions declaring strikes illegal are contained in clause 62 of the Bill which is the most important clause in it. It says :

"62. (1) A strike shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to any industrial matter mentioned in Schedule I, before the standing orders relating to such matter and submitted to the Commissioner of Labour under section 26 are settled by him or by the Industrial Court, as the case may be, or before the

expiry of one year from the date on which such standing orders come into operation under section 26 ;

(b) without giving notice in accordance with the provisions of section 28 ;

(*c*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change ;

(*d*) in cases where notice of the change is given in accordance with the provisions of section 28 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 34 is received by the Registrar ;

(*e*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings ;

(*f*) in cases where a submission relating to such dispute or such kinds of dispute is registered under section 43, until such submission is lawfully revoked ; or

(*g*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceedings".

Then, in order to make this clause effective, the Bill prescribes certain penalties for indulging in illegal strikes. These clauses are 66 and 67. Clause 66 says :

"Any employee who has gone on strike or who joins a strike which has been held by the Industrial Court to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.".

Section 67 says :

"If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which has been held to be illegal by the Industrial Court, whether such strike or lock-out has commenced or not, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months, or with fine or with both.

Explanation.—For the purposes of this section, a person who contributes, collects or solicits funds for the purpose of any strike or lock-out shall be deemed to act in furtherance of such strike or lock-out".

Now, Sir, it has been said that these clauses are justifiable, because there is no such thing as a right to strike, and the Bill, therefore, in penalising what the labourers call the right to strike is certainly not contravening any rules of ethics or any rules of jurisprudence. Sir, my first

concern in this speech will be to refute that argument and repudiate that position. Now in order that I may make my position clear, I will begin from some very elementary propositions. First of all, let me make clear what we understand by the word "strike". What does it mean ? It is better, I think, to understand the meaning of the term "strike". In plain, popular language, a strike is nothing more than a breach of contract of service. When a worker strikes, all that it means is that he commits a breach of contract of service : there is nothing more in it, and nothing less in it. And the next question that I propose to raise is this : how is this breach of contract of service dealt with by the law as it stands today on the Indian Statute Book? Does the Indian law recognise this right to strike or not ? And, if it does, in what way ; and, if it punishes, in what way does it punish it ? Sir, here again, I will begin with an elementary proposition, and that elementary proposition is this : that an act or an omission may be a civil wrong, or it may be a crime. And the first question that I propose to raise—I really wish to deal with this matter exhaustively, because I do not want to leave any doubt at all as regards my position in this matter—the first question I propose to raise is : is breach of contract of service a civil wrong ? The answer that the law gives is : Yes, it is a civil wrong. What are the remedies for an aggrieved person who has suffered this civil wrong? That would be the next question to follow on. There again the answer is that the present law provides two remedies for an aggrieved person whose contract has been broken by a workman, and those are damages and specific relief. Now, although the law does provide these two remedies, namely, damages and specific performance wherever there is a civil wrong, there is one provision which applies particularly to contracts of service. Whenever a man breaks a contract of service all that the aggrieved party is entitled to is damages ; he can never seek specific relief, and the court can never give relief whereby it can compel a man to perform the contract of service which he has entered upon. All that the aggrieved party would be entitled to is damages. Sir, that is the position as far as breach of contract of service is concerned as a civil wrong. For this civil wrong the employer can get nothing more than damages.

Looking at this breach of contract of service as a crime, the question is : Is it a crime ? What has been the provision of the Indian law so far as breach of contract of service is concerned ? Sir, it is necessary, in the interest of clarification, to give to the House a little bit of history as to how this matter has been treated by our Indian law. The Indian law which first dealt with breach of contract of service was Act XIII of 1859 ; it was called the Workmen's Breach of Contract Act. This was passed in 1859, soon after the Mutiny or during the course of the Mutiny. I shall presently give to the House the reasons why this legislation was passed. Then, there

are provisions in the Indian Penal Code which also deal with this matter, namely, breach of contract of service as a crime, and those sections are 490, 491 and 492. With regard to Act XIII of 1859, that Act was of a limited application. It applied to artificers and artisans ; it applied to cases where artificers and artisans had taken advances from their employers and had subsequently refused to perform the obligations they had undertaken. It was dictated by the necessity of the circumstances. The British Government was faced with the Mutiny. During the period the Mutiny continued, the military engaged many artificers and many artisans to whom monies had been advanced in the expectation that they would render the service which they had undertaken to do, but by reason of fear or by reason of some other circumstances, those artificers and artisans went back to their native places and consequently were not in a position to perform the obligations that they had undertaken, although they had received an advance. It was to cover such cases that this Act of 1859 was passed. It is on record that although this Act was passed, which did make breach of service of contract a crime, it was very rarely put into operation ; it was really not a law which people were brought to suffer under. Sir, the subsequent history of this Act is also interesting. This Act, which stood as a formal statute from 1859, but which, as I said, was never put into operation, was amended in 1920 by Act XII of the Government of India. The amending Act introduced two very salutary principles in this Act One salutary principle that was introduced in this Act was that a magistrate, before punishing an artisan who had committed a breach of contract of service, was authorised to enquire into the equity of the contract, so that, if the magistrate came to the conclusion that the contract was inequitable, men, he was not authorised to punish the recalcitrant workman, notwithstanding the fact that he had taken an advance from his employer. That was the first change that was introduced by the Act of 1920. Then, the second salutary provision that was introduced by the Act of 1920 was that the magistrate was given the power to punish an employer who brought a frivolous complaint,—a provision which was not in the original Act.

Coming to the sections of the Indian Penal Code, the three sections to which I referred have an interesting history. Section 490 dealt with a breach of contract of service during a voyage or journey. It was a section of a very limited application. It did not apply to all breaches of contract of service ; it applied only to seamen who went on a voyage or a journey. Obviously, it was very necessary to make an exception of this kind in the case of service of seamen, on whose continued service the success and safety of the voyage depended. The other section, section 491, related to breach of contract on the part of an attendant in supplying the wants of helpless persons. It applied, for instance, to an ayah who had contracted to take care of a helpless child ; it applied to a servant who had undertaken to supply he needs of a man who was lame and who could not look after

himself. That was section 491. Then, section 492 covered a case of breach of contract of service at a distant place to which the servant was conveyed at the expense of the master. These were the three provisions that were enacted when the Indian Penal Code came into operation. Now, Sir, what has been the history of these three sections ever since they were enacted? The history is this, that by Act III of 1925 the Central Legislature has repealed section 490 and section 492. Those sections no longer apply, and the breaches of service which were crimes under them are no longer crimes at all. The only section, therefore, that remains is section 491 of the Indian Penal Code. So that, so far as the law now stands in India, the only breach of contract of service that can involve penal consequences, as distinguished from damages, is section 491 ; and I do not think that any member of the House would cavil at this provision if he knows that it is really intended to cover the case of a person who is a helpless person and who cannot look after himself.

Now, Sir, taking stock of all that I have stated so far relating to the legal position involved as a result of breach of contract of service, which, I say, is merely a popular description of that forbidding word "strike", what is the position ? The position is this. A breach of contract of service is not a crime, and is not punishable under the Indian Law except when the case falls under section 491. That means it is only a civil wrong ; it is not a crime. And, further, it is a civil wrong for which the remedy can only be damages and never a specific performance. I want to emphasise that. Now, the question which I am sure the House would like to consider with all the seriousness that it can command is this : Why is it that the Indian law does not make a breach of contract of service a crime ? And why is it that the Indian law does not provide for a specific performance ? Whatever answer other members of the House would choose to give, my answer is very simple. My answer is this, that the Indian Legislature does not make a breach of contract of service a crime because it thinks that to make it a crime is to compel a man to serve against his will ; [and making him a slave (Hear, hear.)] To penalise a strike, therefore, I contend, is nothing short of making the worker a slave. For what is slavery ? As defined in the constitution of the United States, slavery is nothing else but involuntary servitude. And this is involuntary servitude. This is contrary to ethics ; this is contrary to jurisprudence. Sir, the framers of the Indian Penal Code were very much concerned, when they drafted the provisions to which I have just referred, namely, sections 490, 491 and 492, as I see from the head-note here ; they evidently had great qualms of conscience, and they were wondering whether they would be right in enacting even the small provisions contained in sections 490, 491 and 492. This is what the framers of the Indian Penal Code said with regard to Chapter XIX, which is headed "Of the Criminal Breach of Contract of Service":

> "We agree with the great body of jurists in thinking that, in general, a mere breach of contract ought not to be an offence, but only to be the subject of a civil action. To this general rule there are, however, some exceptions. Some breaches of contract are very likely to cause evil such as no damages or only very high damages can repair, and are also very likely to be committed by persons from whom it is exceedingly improbable that any damages can be obtained. Such breaches of contract are, we conceive, proper subjects for penal legislation."

With all the great survey that they had made of the different kinds of acts of omission which could be penalised, they found that the only acts of omission which could be penalised, consistently with the provisions of ethics and jurisprudence, were these three provisions, and nothing more.

Now, Sir, it has been said that there is no such thing as the right to strike. My reply is that this statement can come from a man who really does not understand what a strike is. If members are prepared to accept my meaning of the word "strike" as being nothing more than a breach of contract, then I submit that a strike is simply another name for the right to freedom ; it is nothing else than the right to the freedom of one's services on any terms that one wants to obtain. And once you concede the right to freedom, you necessarily concede the right to strike, because, as I have said, the right to strike is simply another name for the right to freedom. A sort of ridicule is sought to be poured upon it by saying that this is something like the divine right of kings. Sir, I would only say in reply that a poetic phrase or a picturesque description does not dispose of an argument ; I have never seen that result anywhere—certainly not in courts of law. If you accept that the right to freedom is a divine right, then I contend that the right to strike is a divine right (Hear, hear.) I go further and say that because ten people or twenty people or two hundred people simultaneously declare a strike, that cannot make any difference in the situation so far as the law is concerned.

I know, Sir, that some will point out section 120A of the Indian Penal Code and I am going to deal with that matter before I leave this subject Now, Sir, section 120A of the Indian Penal Code is a section which deals with conspiracy. I wonder if members opposite wish to argue from it that there is no right to strike because a strike by a body of workers is a conspiracy. If they do, I would like those gentlemen opposite who rely on section 120A as a ground for submitting that there is no right to strike for a body of workers, to prove that a strike is a conspiracy. Unless they prove that a strike is a conspiracy section 120A will not apply, and I contend that a strike is not a conspiracy.

An Honourable Member : Who says it is applicable ? It is a matter of public utility.

Dr. B. R. Ambedkar : I am coming to the question of public utility later on.

Sir, unfortunately we have no decided cases in India. My research is not rewarded with a case where strikers have been hauled up under section 120A

on the ground that it was a conspiracy. But I find some support from the English law on the subject, which also deals with strike in its aspect of conspiracy, and I will read to the House a short passage from a book called "The Legal Position of Trade Unions" by Scholosser. I read the passage at p. 76 : —

> "Strikes, therefore, and similar combinations to better the conditions of labour, are not in themselves unlawful at common law. There is no foundation for the proposition that strikes are *per se* illegal or unlawful by the law of England. It is true that occasional dicta are to be found to the effect that combinations to better the conditions of labour are unlawful at common law, but the courts have never accepted the law thus laid down, and eminent judges have expressed views to the contrary. Throughout the seventeenth and eighteenth centuries no court treated combinations to better the conditions of labour as being contrary to common law, and none of the series of legislative enactments, resisting attempts of workmen to better the conditions of labour, purported to declare or rest upon the common law. If we accept an *obiter dictum* by Grose, J., in Rex *v.* Mawbey, there were no judicial dicta in support of the suggested proposition until after the Legislature swept away all those statutes by the Combination Act of 1925. Conclusions as to the common law which first appear in recent times, and are based upon an accepted principle of earlier date, are to be looked upon with great suspicion. Ever since 1824 the weight of authority is against this doctrine. Strikes *per se* are combinations"

This is an important part of the judgment :

> "neither for accomplishing an unlawful end, nor for accomplishing a lawful end by unlawful means. The law is clear that workmen have a right to combine for their own protection, while the combination is to obtain a benefit which by law they can claim. The power of choice in respect of labour and terms, which one may exercise"

This is the point I was trying to emphasise :

> "and declare singly, many, after consultation, may exercise jointly, and they may make simultaneously declaration of their choice, and may lawfully act thereon for the immediate purpose of obtaining the required terms.
>
> The maintenance of a strike is not necessarily illegal, and if a strike has taken place, in breach of contract, but the broken contracts have expired, those who help to maintain the strike by supporting the workmen after their current contracts have expired in a refusal to enter into new contracts of service on new terms, are not doing anything illegal.
>
> Thus combinations"

This is the point to which I wish to draw the attention of the House, because it has a direct bearing on section 120A of the Indian Penal Code, "which result in injury to another may be unlawful, when the object of the

combination is injury" the words are "when the object of the combination is injury":

> "and if the injury is effected, an action may lie for conspiracy. The question to be decided in each individual case is, haw far the resulting injury is ancillary to a legitimate combination and how far the combination exists for the purpose of injury."

Therefore, my submission is that in order to bring strikes under section 120A what would be necessary for the prosecution to prove is that the purpose of the strike was to cause injury. If injury merely resulted from the strike, that would not make the strike an unlawful combination within the meaning of section 120A. Therefore, my first contention is this that this Bill, by penalising a strike, is reducing the workers to a state of slavery and nothing else.

The Bill really, in my judgment ought to be called "The Workers' Civil Liberties Suspension Act". That would be the proper title for it. Some have got the impression that, after all, the suspension is only for two months—until the conciliation proceedings are terminated—and after that the workers would be at liberty to strike if they wish. Sir, I would like to say that this would be a very wrong impression. My contention is that the provisions of this Bill, when they are set in operation, will bring about perpetual slavery and the workers will never be able to strike. Let us look at the provisions. First of all, the Bill provides that when the Act comes into operation, there is not to be any strike at all for one year. Whether conditions are such that a reasonable worker would accept them or whether conditions are such that no reasonable worker would accept them, for one year there is complete slavery. The workers are bound down to the terms mentioned in the Second Schedule. There is no escape, there is no going away from that position. What happens after the first year is over ? What happens is this. You have got to give notice ; that takes away a part of the time during which you cannot strike. Then after notice is given, time is allowed for reply. During the period of reply you cannot strike. Then, conciliation proceedings commence. They may last for two months, if the parties are fortunate, if the parties are reasonable ; but the Bill provides that the term may extend to four months. Therefore, from the date of the origin of the grievance of the workers, for four months and practically 25 days—I will stand corrected if my calculation is wrong because I have not gone into the details—the worker must do nothing. He must not talk, he must not deliver a speech, he must not organise, he must do nothing. All mobilisation, included a word or a speech or an action is penalised during this period. Suppose that no conciliation is effected during this long period of four months and 25 days—I submit a long period of gestation—what is to happen ? The worker is allowed only two months to strike after the conciliation period is over. I do not know whether my honourable friend the mover of the Bill thinks that two months is a sufficiently long period for the demobilised forces of labourers to mobilise for action. I have been an active worker in the

labour field. I cannot say that I am a fieldman and I therefore do not know what are the difficulties which a person who is organising the workers for strike will have to meet. But looking at the situation from such experience as I possess as an observer in the City of Bombay, I have not the slightest hesitation that two months would be the most inadequate period for a body of labourers who have been held at bay so to say, for four months and 25 days to mobilise their forces in order to strike. If they do not strike within two months, what happens ? What happens is this that they are deemed in law to have accepted the situation. If they again raise their head and find out new grievances, the law says you shall again wait for four months and 25 days and allow conciliation to go on. Wait and see what we do. Wait and see, for four months and 25 days. Again if nothing happens at the end of four months and 25 days, if you think you can strike, do so within two months. If you do not and after two months you raise another grievance, you shall have to wait again for four months and 25 days. Sir, I would like to know whether such an endless cycle of don'ts would not produce complete slavery, perpetual slavery, of the workers for all time. If this is not a Bill for introducing slavery amongst workers, I would like to know what sort of Bill would introduce slavery. So much with regard to the provisions of the Bill which relate to strike.

Now, Sir, it will be necessary and I say very instructive to compare the provisions of this Bill, in so far as they relate to strike, with the provisions contained in Trade Disputes Act of 1929. That is an Act which also imposes certain limitations upon the right to strike and it would be, therefore, very instructive to compare the provisions contained in that Act with the provisions contained in this Bill, so that the House may be in a position to realise in what direction we are moving, whether we are moving in the direction of slavery. Sir, the Act of 1929 imposes certain limitations upon the right of the workers to strike and it would be enough if I refer to two of its sections. That Act of 1929 penalises a general strike for political purposes. That is section 16 of the Act and the other section which is more relevant for my purpose is section 15 which penalises a strike without notice. Apparently there does appear to be some sort of similarity between the Act of 1929 and the present Bill in so far as this Bill also penalises a strike without notice. But, Sir, beyond that the one Bill is as different from the other as chalk is from cheese. The one has nothing to do with the other and, comparatively speaking, I have not the slightest hesitation in saying that this Bill is reactionary and retrograde, and that the author of this Bill is a far greater Tory than the author of the Act of 1929.

Sir, let us compare the provisions of section 15 of the Act of 1929. As everyone who is acquainted with the subject knows, that section 15 of the Act of 1929 is restricted to public utilities. What that Act penalises is not all strikes, but strikes in what are called public utility services and this, I submit, is a fundamental difference between this Bill and the Act of 1929.

Now, Sir, the question that I would like to ask is, is this departure from the position taken in 1929 any way justifiable ? And I think it would be desirable if I begin by stating what was the position of the Congress Party in 1929 when this Bill was placed before the Central Assembly. Now, Sir, I have taken the trouble to hunt up and read the report of the Select Committee which was appointed by the Central Legislature to consider the provisions of the Bill which ultimately became the Act of 1929 and confining my attention to the two contestants, if I may say so, the bureaucracy, I use the terms which are familiar on the other side, the bureaucracy, on the one hand and the Congress Party on the other, what were the points of contention there when this Act of 1929 was on the anvil ? I find that the points of difference were these two. Government wanted that public utility services should be left to be defined by them at their discretion. They did not want to give in the Act itself a definition of what was a public utility nor were they prepared at the time *to* enumerate what, in their opinion, were the public utility services. They said that a public utility and its importance depended upon the circumstances of the case. It may vary according to times and circumstances. A service which may not be a public utility at one time may be a public utility at another time and they felt that in the interests of society as was conceived and understood by them it was necessary that the situation should be left in a flux undefined to be defined at the discretion of the Government. Now the Congress stood for two things at the time. The one thing it stood for was that nothing should be left to the discretion of the bureaucracy, that it could not be persuaded to bureaucratic purposes and therefore the Congress Party took the attitude that no discretion ought to be left with the Government. Whatever public utility was to be brought within the purview of section 15 ought to be stated clearly in the Act itself. The second position which the Congress Party took in the year 1929 when the Bill came up was this. They said that the category of a public utility was too large and that a strike should not be made illegal only because it related to a public utility serivce. The position that they took was that it should be confined to what is called "social security services". That was the position in 1929. In this contest Government gave up on one point. They agreed that a public utility should be defined in the Act and therefore you will find, Sir, that section 2 of the Act, which is an interpretation clause, has got a definition of what is a public utility and you have got there a public utility enumerated, Government not having any discretion to add to it or to take anything out of it. With regard to the other position, namely, narrowing the category of service to which the illegality of the strike was to be confined, Government did not yield. Government said that their formula that it should be extended to public utility services must stand and the Congress Party did not succeed, but that does not really matter for my argument, because my argument is this that in 1929 the Congress Party stood for restricting the illegality of the strike to social security services. Sir, I want to read from the report of the select

committee some of the minutes which members of the Congress wrote. I believe the honourable member Mr. Jamnadas Mehta was a member of the Congress then, but I am not sure.

Mr. Jamnadas M. Mehta : I have maintained that attitude even today.

Dr. B. R. Ambedkar : This is, Sir, from a minute written by Mr. Jamnadas Mehta, Mr. M. S. Sesha Aiyangar, Mr. S. C. Mitra and Mr. V. V. Jogiah :

> "The fundamental objections to the Bill as it emerges from the Select Committee remain unaffected. We feel that clauses 15 and onwards, far from settling trade disputes, will only multiply them ; they will embitter relations between the employer and the employed and will, as all experience of similar legislation testifies, be utilised by the authorities for crushing political propaganda unpleasant to the bureaucracy. If the object of the Bill is to develop and foster genuine trade union movement in the country, clause 15 and onwards will surely defeat that object."

That was the position that they took that no strike ought to be penalised even though it was applied to public utility services. The minute of dissent proceeds :

> "..... . But having failed in that object we are obliged to append this minute of dissent. Up to clause 14 the Bill is a genuine attempt towards settlement of trade disputes by means of courts of inquiry and boards of conciliation. We believe that so far as that portion of the Bill is concerned, it emerges from the Select Committee considerably improved and strengthened. Almost all the changes that have been made in the Bill up to that clause have served to make it more equitable and just. Of course we leave out of account the definition of the 'public utility services' in clause 2(*g*). That definition is consequential to clause 15 and should therefore be considered along with it. We believe that this clause is a great danger to friendly relations between the employers and the employed. A public service may be a 'utility service', but it does not therefore follow that a strike in such services without notice ought to be visited with criminal prosecution. It is true that a lock-out in such services has been made an offence also, but that does not affect the argument against making a strike a penal offence. We cannot understand why a strike in a postal, telegraph or telephone service or for the matter of that in any Railway service should be made a crime. No doubt such a strike is inconvenient and interferes with our ordinary comforts, but it is monstrous to claim that if any body of men refuses to minister to our comforts if any to claim that body as criminals especially when the strikers feel that these comforts and conveniences can only be satisfied by their own degradation and misery. Can it be seriously contended that the Frontier Mail and similar luxurious services are so vital to society that strikes thereon should be made illegal ?"

I commend these last few lines to my honourable friends opposite. Then the quotation goes on :

> "For the Legislature to give sanction to so iniquitous a doctrine as the one which is embodied in clause 15 is to proclaim to the world that the

mass of mankind ought to remain wage slaves and that they would strike only on the pain of being clapped into jail. We are most anxious to promote the industrial advancement of our country but not by methods of coercion as proposed under this clause. We grant that services like the supply of water, light and sanitation are absolutely essential to the very existence of society and that any strike in such services should be discouraged by all legitimate means, not because they are 'public utility services' but because they are 'social security services' ; and as no man could be permitted to have interest against the very existence of society, we are not opposed to any legislation against making strikes in the 'social security services' illegal ....."

Sir, that was the position the Congress members took then. Sir, I would also like to read an extract from the minute of dissent appended by Mr. Kunzru. He is a Liberal. I emphasize that because you would be able to know what even moderate men who did not profess the principles and policies of Congress said in 1929. This is what he says :

"Clause 15 which deals with strikes in public utility services renders a strike in violation of the terms of services without previous notice illegal. If it was attempted to make sudden strike penal only in services where stoppage of work without adequate notice would endanger human health or life, the case for such action would theoretically be clear, however difficult the enforcement of the law might be in practice. But the definition of a public utility service in spite of the deletion of that provision by the Select Committee which would have vested Government with a discretionary power to declare any service a public utility service still includes services sudden strikes in which, whatever the inconvenience they may cause, cannot involve danger to life. However undesirable sudden strikes may be in any undertaking, there is no ground for making them penal where they do not affect the safety of the community. It may further be pointed out that sudden strikes in services which affect the existence of the community have been remedied by the provinces. Besides strikes, if resorted to in breach of contract, can be severely dealt with under the Indian Penal Code ....."

That was the attitude of Mr. Kunzru. I too agree in the proposition, that the right to strike without notice should be restricted, but it should be restricted only in case of service which are not public utility services but social security services. Now, Sir, that is in perfect consonance with the English legislation. In this connection, I would like to draw the attention of the House to what is called the Emergency Powers Act of 1920. It was passed by the British Parliament a year or two after the War was over. There too Government was given power to make regulations to deal with emergencies. I will just read one or two sections from that Act. Section 1 says :

"If at any time it appears to His Majesty that any action has been taken or immediately threatened by any person or body of persons of

such a nature and on so extensive a scale as to be calculated to be interfering with the supply and distribution ..... ."

I desire to draw the attention of the House to these particular words :

"of food, water, fuel or light or with means of locomotion, to deprive the community or any single portion of the community of the essential services ..... ."

"His Majesty may, by proclamation declare that a state of emergency exists."

Then section 2 says :

"Where a proclamation of emergency has been made, and so long as the proclamation is in force, it shall be lawful for His Majesty's Court, to make regulations for securing the essentials of life to the community, and these regulations may confer or impose on a ..... . Government ..... . such powers and duties as His Majesty may deem necessary ..... ."

The point to bear in mind is that all this is confined to cases of essential to public safety and life of the community. This has always been the view taken, that if you want to restrict the right to strike and to make it illegal, then you must do it only in relation to services on which the sustenance of the life of the community depends. Now, it is obvious that this Bill extends to every trade and every industry. I do not wish to say anything with the object of making fun, but I should like to illustrate my point by saying that, supposing tomorrow the Indian women—I hope they do not—adopt the fashion of painting their lips and some manufacturer who had a nose for money started an industry for making lip-sticks for supplying their needs, and if under this Act the workers went on strike, its provisions would fall upon their head like the sword of Damocles. Can anybody seriously maintain that the lip-stick industry is essential to life, that the right to strike should be curtailed because some women are deprived of the pleasure of having the usual paint on their lips ? Sir, this Government has not only let go by the board the attitude that it took in 1929, of restricting the penalty to strikes in social security services, but they have beaten the bureaucracy by going beyond the provisions of the Act of 1929. The bureaucracy had at least the sense, if I may say so, the responsibility, to realise that the right to strike was so important that it should not be penalised beyond the four corners of what was covered by public security ; and here is a Bill which, I would like to repeat, would make a strike in the lip-stick industry penal.

All this, for what? What are we to gain by all these trials and tribulations which they are trying to impose upon these poor workmen ? The result, as I see, is to wait at the table of some gentlemen, whom the Bill calls the conciliator, for 4 months and 25 days. Beyond that I see nothing. The Honourable the Home Minister said that one of the reasons why this Bill has been introduced was because the State was taking upon its own shoulders to collective bargaining. I think he said something to that effect. If I am wrong, I hope he will correct me.

The Honourable Mr. K. M. Munshi : No ; not taking upon its shoulders collective bargaining, but regulating collective bargaining.

Dr. B. R. Ambedkar : Regulating collective bargaining. I shall be very candid. What is the use of these regulations ? There are heaps of regulations in the Civil Procedure Code. Is the litigant interested in them ? The litigant is interested in the result of his suit. With all the formalities, with all the provisions and procedure, who is to give notice, what is to happen after notice, who is to draft the written statement and all other things—the hungry workman is not interested in them in the least.

The Honourable Mr. K. M. Munshi : Therefore, repeal the Civil Procedure Code ?

Dr. B. R. Ambedkar : I do not say anything of the kind. What I am saying is, with all the provisions that they have got, they should have bucked up, they should have had the courage and said "we shall compulsorily arbitrate, whether you agree to it or not". (Interruption.) It is another matter whether I agree or not. If you had taken up that attitude, I could have certainly understood it, because the position then would have been this, that at the end of 4 months and 25 days you would have been certain of some tangible result.

An Honourable Member : That would have been slavery to the wage earner.
Dr. B. R. Ambedkar : You have enough, and you need not have been abashed for going a step further in this Bill. (Interruption).

The Honourable the Speaker : Order, order.

Dr. B. R. Ambedkar : Therefore, Sir, what is all this for ? You have to go through several stages—a Registrar, a Conciliator, and a Board of Conciliators if both parties agree. It is only a case of securing appearances before certain amiable gentlemen who will talk sweetly to different people and bring about probably a good temper, if a hungry man who wants some thing can be said to be in a good temper. I do not see anything in it. This is, in my judgment, absolutely a futility, an utter futility which can have no tangible result at all. The only tangible result of this will be that this delaying process for 4 months and 25 days will disable the worker from going on strike ultimately. Here again, I would like to draw the attention of the House to the contrast that exists between the Bombay Act of 1934 and the present Bill. Sir, when the Bill of 1934 was on the anvil, it was suggested that a strike should be prohibited during the period of conciliation. There was a proposal to that effect. But that proposal was rejected by the Honourable Sir Robert Bell. It was even pressed upon him that if a strike was not prohibited, at least picketing ought to be prohibited, but he refused even to be a party to that. (An Honourable Member : No, no.) As there is a challenge, I will read a portion of his speech. This is what he says on page 180, Vol. XL, of the Bombay Legislative Council Debates :

> "I wish to refer to one matter connected with the subject of picketing. In clause 15 you will see that provision is made for preventing picketing