

4th April 1929

# LEGISLATIVE ASSEMBLY DEBATES

## (Official Report)

Volume III

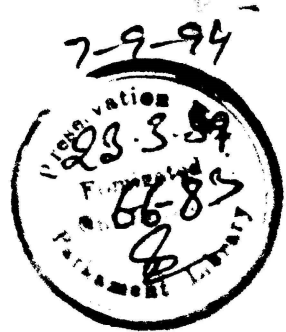
*(21st March to 12th April, 1929)*

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### FOURTH SESSION

OF THE

### THIRD LEGISLATIVE ASSEMBLY, 1929



DELHI  
GOVERNMENT OF INDIA PRESS  
1929

# **Legislative Assembly.**

## ***President :***

**THE HONOURABLE MR. V. J. PATEL.**

## ***Deputy President :***

**MAULVI MUHAMMAD YAKUB, M.L.A.**

## ***Panel of Chairmen :***

**PANDIT MADAN MOHAN MALAVIYA, M.L.A.**

**SIR DARCY LINDRAY, KT., C.B.E., M.L.A.**

**SIR PURSHOTAMDAS THAKURDAS, KT., C.I.E., M.B.E., M.L.A.**

**MR. JAMNADAS M. MEHTA, M.L.A.**

## ***Secretary :***

**MR. S. C. GUPTA, BAR.-AT-LAW.**

## ***Assistant of the Secretary***

**RAI SAHIB D. DUTT.**

## ***Marshal :***

**CAPTAIN SURAJ SINGH BAHADUR, I.O.M.**

## ***Committee of Public Petitions :***

**MAULVI MUHAMMAD YAKUB, M.L.A., Chairman.**

**MR. DWARKA PRASAD MISRA, M.L.A.**

**SIR PURSHOTAMDAS THAKURDAS, KT., C.I.E., M.B.E., M.L.A.**

**MR. DHIRENDRA KANTA LAL HIRI CHAUDHURY, M.L.A.**

**NAWAB SIR SAHIBZADA ABDUL QAYUM, K.C.I.E., M.L.A.**

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# LEGISLATIVE ASSEMBLY.

Thursday, 4th April, 1929.

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

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## THE PUBLIC SAFETY BILL—*contd.*

**The Honourable Mr. J. Orerar** (Home Member): Mr. President, you drew the attention of the Government last Tuesday to certain difficulties which you felt in connection with the further discussion in this House of the Public Safety Bill. I understand that your difficulty, put shortly, is that the case for the Bill and the case for the prosecution in the Meerut conspiracy case are substantially the same. Therefore it is not possible to argue the case for the Bill without arguing the case for the prosecution and making statements which are likely to prejudice the trial. You also suggested, if I understood you aright, that, apart from the actual discussion in the House, if the House accepts the Bill, this will prejudice the trial. You doubt whether, in these circumstances, in discharge of a power that you conceive the Chair to possess, you can allow the Government to proceed further with the Bill at this stage, and you have accordingly advised the Government either to postpone the Bill till the conclusion of the Meerut trial or to withdraw the Meerut case and then proceed with the Bill.

The Government have given their very careful consideration to these views. It appears to them that they rest in part on a misunderstanding of the facts and in part on a misconception of the powers conferred upon the President by the Rules and Standing Orders of this Chamber. With regard to the first point, the Government, in the discharge of their responsibilities, are entitled to ask this House to entrust them with certain powers. For this purpose they do not require to refer to any detailed allegations which will be for the adjudication of the Court, and they are of opinion that nothing need be said which would prejudice the matter which is before the Court, namely, whether the thirty-one accused persons or any of them have entered into a conspiracy to deprive the King-Emperor of the sovereignty of British India. Nor can they agree to the proposition that if the House decides to place in the hands of Government powers intended to prevent or check subversive propaganda in this country, this fact will in any way prejudice the decision of the question whether these accused persons have or have not entered into the conspiracy alleged against them. The principle of the Bill has already been subjected to the most comprehensive discussion in two sessions and has recently been affirmed by the House by a substantial majority. The primary matter now before the House is the consideration of the changes of detail made by

[Mr. J. Crerar.]

the Select Committee in respect of the adequacy or reasonableness of the powers to be conferred and the amendments of which Honourable Members have given notice. It does not appear to the Government that the discussion of these matters with due regard to the observance of the rule prohibiting reference to facts on which a judicial decision is pending, need cause any inconvenience to the House or embarrassment to the Chair in maintaining the rule. This view is reinforced by the fact that you, Sir, found no occasion when the Honourable the Law Member moved on the 28th March last that the Bill as reported by the Select Committee be taken into consideration, to object to anything that was then said on behalf of Government on the ground that it infringed the provisions of Standing Order 29.

The point, however, to which the Government attach the greatest importance is that, in their opinion, neither the Legislative Rules nor the Standing Orders confer on the President the powers which you apparently claim of refusing to allow further discussion of the Bill on the grounds suggested. Rules 8, 12 and 28, on which you appear to rely, do not relate to the discussion of a Bill, their content being restricted to questions, Resolutions and motions for the adjournment. In the case of a Bill, the relevant powers of the President in the matter of debate are contained in Standing Order 29. It is his duty to see that the directions laid down therein are observed. The power vested in him is to be exercised for the control of individual Members while speaking and cannot be employed for the purpose of preventing Government business from being transacted. As I have already indicated, the Government will give every assistance to the President in ensuring that, on their part, the rule which prohibits reference to matters of fact on which a judicial decision is pending is not violated, and they have every confidence that you, Sir, will be able to regulate the debate in accordance with the rules of the House. But they must repeat that, in their opinion, no rule or Standing Order of this Chamber authorises the President to decide whether Government should or should not be allowed to proceed with legislation which it desires to submit for the consideration of this House in a case where all the requirements of the rules and Standing Orders preliminary to the moving of a motion have been fulfilled, as they have been in respect of this Bill; and I must make it plain that Government would regard any such claim as incompatible with the undoubted discretion of Government, under the constitution, to decide what legislation it shall ask the House to pass and when, and the equally undoubted right of this House to decide whether it will discuss and pass the legislation so placed before it. The House is now seized of the Bill and I submit that it is beyond the powers of the Chair to withhold the Bill from its consideration.

In the circumstances, Sir, you will understand that Government regret to find themselves unable to accept either of the alternative suggestions you put before them. They regard the passing of the Bill as a matter of urgent importance to enable them to fulfil their responsibilities for the government of the country, and they could not contemplate the withdrawal of a criminal case, the decision of which they regard as essential in the public interest. The submission of the Government, therefore, is that, in accordance with the rules of the House, you, Sir, should direct the House to proceed, as soon as may be, with the consideration of the Public Safety Bill.

**Pandit Motilal Nehru** (Cities of the United Provinces: Non-Muhammadan Urban): May I ask you, Sir, to allow this House an opportunity to consider the long and learned statement just made by the Honourable the Home Member and to express its views upon it before you give your ruling on the point?

**Sir Darcy Lindsay** (Bengal: European): I join, Sir, with my Honourable friend in putting forward a similar request.

**Pandit Madan Mohan Malaviya** (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): So do I, Sir.

**Mr. President:** I think I must accept the request made by Honourable Members and it will be my duty to give them the opportunity they seek before I give my ruling. I wish it were possible for the Honourable the Leader of the House to circulate a copy of his statement to all Honourable Members so that they might be in a position to express their views before the Chair comes to any decision on the point. Of course, it is not for me to direct the Leader of the House to do so, but I hope, in all fairness, he will agree to circulate a copy of his statement to all Honourable Members.

**The Honourable Mr. J. Orerar:** I shall endeavour to make copies of the statement available as soon as possible, Sir. In view of what you have said, I would request that, after you have announced your conclusions, you will give me an opportunity of making a further statement as to the position of Government.

**Mr. President:** Does the Honourable Member mean, after I have announced my decision?

**The Honourable Mr. J. Orerar:** Yes, Sir.

**Mr. President:** The Chair will have to consider that.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Sir, I rise on a point of order and ask for a ruling from the Chair. Is there any rule in the Standing Orders that, when a ruling is asked from the Chair, the Chair should consult the Leaders of the Parties, and only after hearing the other side, the ruling should be given, or is it according to the rules and Standing Orders that the Chair should be in a position to give a ruling straightaway when it is asked for, without consulting the Leaders of any Parties?

(No answer was given.)

### THE TRADE DISPUTES BILL—*contd.*

**Mr. President:** The House will now resume further consideration of the Trade Disputes Bill, clause by clause. The question is:

"That clause 2 stand part of the Bill."

**Diwan Chaman Lal** (West Punjab: Non-Muhammadan): Sir, I beg to move the following amendment:

"In sub-clause (e) of clause 2 of the Bill, for all the words occurring after the words 'in consequence of a dispute' the following be substituted:

'or with the purpose of aiding another employer'."

[Diwan Chaman Lall.]

Now, Sir, sub-clause (e) of clause 2 reads as follows:

"(e) 'lock-out' means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, where such closing, suspension or refusal occurs in consequence of a dispute. . . ."

and it is here, Sir, that I want to add the words:

"or with the purpose of aiding another employer."

I think it will make the clause perfectly clear if you add the words that I suggest, because what is meant is that a dispute does not necessarily mean a dispute between an employer and an employee but also disputes arising out of a desire on the part of one employer to assist another. I think the proposition is self-evident.

**The Honourable Sir Bhupendra Nath Mitra** (Member for Industries and Labour): Sir, I must oppose the amendment. As it is, the words are there "and is intended for the purpose of compelling those persons, or of aiding another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment." The more important words are "to accept terms or conditions, etc." The amendment proposed by my friend, Diwan Chaman Lall leaves the position delightfully vague, and therefore I am not prepared to accept the amendment.

**Mr. President:** The question is:

"That in sub-clause (e) of clause 2 of the Bill, for all the words occurring after the words 'in consequence of a dispute' the following be substituted:

'or with the purpose of aiding another employer'."

The motion was negatived.

**Diwan Chaman Lall:** Sir, I beg to move the following amendment to clause (g):

"That sub-clause (g) of clause 2 be omitted."

My reason for moving this amendment is that I do not desire that we should include any reference to public utility services in the body of this Bill. This will in reality be a consequential amendment when we discuss clause 15 of this Bill, and it is not necessary for me now to go into the merits of the question, because I shall deal comprehensively with the question of the inclusion of public utility services in the body of this Bill when I come to deal with clause 15. I merely desire now to point out that my intention in moving this amendment is to exclude public utility services from the ambit of this Bill.

**The Honourable Sir Bhupendra Nath Mitra:** Sir, as I consider it essential that public utility services should come within the ambit of this Bill, I must oppose the amendment.

**Mr. President:** The question is:

"That sub-clause (g) of clause 2 be omitted."

The Assembly divided:

AYES—27.

Aney, Mr. M. S.  
Bhargava, Pandit Thakur Das.  
Chaman Lall, Diwan.  
Hans Raj, Lala.  
Iswar Saran, Munshi.  
Iyengar, Mr. A. Rangaswami.  
Iyengar, Mr. S. Srinivasa.  
Jogiah, Mr. V. V.  
Kartar Singh, Sardar.  
Kelkar, Mr. N. C.  
Kidwai, Mr. Rafi Ahmad.  
Lahiri Chaudhury, Mr. D. K.  
Mehta, Mr. Jamnadas M.  
Misra, Mr. Dwarka Prasad.

Mitra, Mr. S. C.  
Moonje, Dr. B. S.  
Mukhtar Singh, Mr.  
Naidu, Mr. B. P.  
Nehru, Pandit Motilal.  
Neogy, Mr. K. C.  
Ranga Iyer, Mr. C. S.  
Sarda, Rai Sahib Harbilas.  
Sarfaraz Hussain Khan, Khan Bahadur.  
Singh, Mr. Ram Narayan.  
Sinha, Mr. Rajivaranjan Prasad.  
Sinha, Mr. Siddheswar Prasad.  
Yusuf Imam, Mr.

NOES—53.

Abdoola Haroon, Haji.  
Abdul Aziz, Khan Bahadur Mian.  
Ahmed, Mr. K.  
Allison, Mr. F. W.  
Anwar-ul-Azim, Mr.  
Ashrafuddin Ahmed, Khan Bahadur  
Nawabzada Sayid.  
Bajpai, Mr. G. S.  
Bower, Mr. E. H. M.  
• Bray, Sir Denys.  
Chalmers, Mr. T. A.  
Chatterjee, the Revd. J. C.  
Coatman, Mr. J.  
Cosgrave, Mr. W. A.  
Crawford, Colonel J. D.  
Crerar, The Honourable Mr. J.  
Dakhan, Khan Bahadur W. M. P.  
Ghulam Kadir Khan.  
Dalal, Sardar Sir Bomanji.  
French, Mr. J. C.  
Ghazanfar Ali Khan, Mr.  
Ghazanfar Ali Khan, Raja.  
Gidney, Lieut.-Colonel H. A. J.  
Gour, Sir Hari Singh.  
Hira Singh, Brar, Sardar Bahadur,  
Honorary Captain.  
Ismail Khan, Mr. Muhammad.  
Jowahir Singh, Sardar Bahadur  
Sardar.

Keane, Mr. M.  
Lall, Mr. S.  
Lindsay, Sir Darcy.  
Mitra, The Honourable Sir Bhupendra  
Nath.  
Mitter, The Honourable Sir Brojendra.  
Muhammad Nawaz Khan, Sardar.  
Mukharji, Rai Bahadur A. K.  
Mukherjee, Mr. S. C.  
Rahimtulla, Mr. Fasal Ibrahim.  
Rainy, The Honourable Sir George.  
Rajah, Rao Bahadur M. C.  
Rao, Mr. V. Panduranga.  
Rau, Mr. H. Shankar.  
Rau, Mr. P. R.  
Roy, Mr. K. C.  
Schuster, The Honourable Sir George.  
Shah Nawaz, Mian Mohammad.  
Shillidy, Mr. J. A.  
Singh, Rai Bahadur S. N.  
Suhrawardy, Dr. A.  
Sykes, Mr. E. F.  
Tirloki Nath, Lala.  
Webb, Mr. M.  
Wright, Mr. W. T. M.  
Yakub, Maulvi Muhammad.  
Yamin Khan, Mr. Muhammad.  
Young, Mr. G. M.  
Zulfiqar Ali Khan, Nawab Sir.

The motion was negatived.

**Mr. S. Srinivasa Iyengar** (Madras City: Non-Muhammadan Urban):  
Mr. President, I suggest that it would be more convenient to take the definition clauses relating to clauses 15 and 16, which are objected to by some of the Members on this side, afterwards, because these clauses really relate to clauses 15 and 16. If by any chance clauses 15 and 16 go out, then these definition clauses would be unnecessary. I would therefore suggest that these definition clauses be taken after a decision has been taken on clauses 15 and 16.

**Mr. President:** I have no objection to the course suggested by the Honourable Member if the Government have no objection on their part.

**The Honourable Sir Bhupendra Nath Mitra:** If that point had been raised by my Honourable friend Diwan Chaman Lall, when he moved his amendment, I should have readily agreed to it. The position which has now emerged is this. There was a debate on the merits of the specific amendment that sub-clause (g) of clause 2 be omitted, Diwan Chaman Lall urging that public utility services should be removed out of the ambit of the Bill, and I taking the opposite view. That was pressed to a division and the House divided and has recorded its opinion on that proposition. That being so, I find myself in a position of some difficulty.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): May I say that the Honourable Member's contention is obviously unsound? Does he mean to say that our having dealt with sub-clause (g) of clause 2 would be tantamount to our having given a vote on clauses 15, 16, 17 and 18? That is not so.

**An Honourable Member:** We have not even voted on clause 2.

**Mr. A. Rangaswami Iyengar:** Therefore it is a rule of convenience that we are suggesting, and it would be wrong for the Government, without putting the full issue before the House on the main question, to go on with the definition clause, and without making the House realise the implications of passing the definition clause, to go and ask the House later to deal with the other clauses. It is a demand which, in fairness, the Government should not make.

**Mr. S. Srinivasa Iyengar:** Interpretation clauses are generally taken last.

**Mr. A. Rangaswami Iyengar:** Yes, interpretation clauses are taken after the substantive clauses of the Bill are passed.

**The Honourable Sir Bhupendra Nath Mitra:** The error of procedure, if any, is one for which the responsibility can hardly be laid at the door of the Government.

**Mr. S. Srinivasa Iyengar:** But there is no *res judicata*.

**The Honourable Sir Bhupendra Nath Mitra:** My friend, Diwan Chaman Lall, must have himself raised the point when he moved that amendment. Later on I submit the wisest course for him should have been not to press his amendment to a division, but by doing so he pressed the substantive issue to a division. His wisest course would have been not to press the amendment to a division, because this would be an amendment consequential on a change in the Bill which arises out of the deletion or otherwise of clause 15. That is the position, and thereafter I shall be content to leave the matter in the hands of the Chair.

**Mr. Jamnadas M. Mehta** (Bombay City: Non-Muhammadan Urban): May I submit that the Honourable Member in charge of the Bill seems to be under a misapprehension. The result of the voting on the amendment of Mr. Chaman Lall is simply this, that sub-clause (g) is not omitted, but clause 2 as a whole remains to be considered by the House on its merits, and therefore I do not think that any inconvenience arises as a result of the voting on the amendment of my Honourable friend Diwan Chaman Lall. I think the course suggested by the Deputy Leader of my Party is eminently reasonable.

**Mr. President:** In view of the fact that the Honourable Member has left it to the Chair to decide whether clauses 15 and 16 should be taken up first, or whether clause 2 should be proceeded with, I decide that it would be more logical and reasonable to take up clause 15 now.

The question is that clause 15 stand part of the Bill.

**Diwan Chaman Lal:** I move that clause 15 be omitted.

Clause 15 reads as follows:

“(1) Any person who, being employed in a public utility service, goes on strike in breach of contract without having given to his employer, within one month before so striking, not less than fourteen days' previous notice in writing of his intention to go on strike, or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer carrying on any public utility service who locks out his workmen in breach of contract without having given them, within one month before such lock-out, not less than fourteen days' notice in writing of his intention to lock them out, or, having given such notice, locks them out before the expiry thereof, shall be liable to imprisonment which may extend to one month, or to a fine which may extend to one thousand rupees, or with both.

(3) Where the employer committing an offence under sub-section (2) is a corporation, company or other association of persons, any secretary, director or other officer or person concerned with the management thereof shall be punishable as therein provided unless he proves that the offence was committed without his knowledge or without his consent.

(4) No Court shall take cognisance of any offence under this section or of the abetment of any such offence save on complaint made by, or under authority from, the Governor General in Council or the Local Government.

(5) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.”

Now, Sir, the principle underlying this clause is to penalise workers going on strike, who are employed in public utility services. The definition of public utility service is as given by the Honourable Member and the Select Committee in clause 2. The principle is obviously based, according to the Honourable Member, upon the convenience of the public. It is based also, according to the Honourable Member, upon the safety of the realm. Now, I cannot understand why a public utility service, to be defined later on, should be singled out in this behalf, except on the ground that there is similar legislation to be found in other countries, and that the Honourable Member is afraid that, if these workers go out on strike, great inconvenience and hardship would be caused to the employers or to the Government. The whole basis of a strike is, I submit, to cause inconvenience to the employer. There is no *raison d'être* for a strike unless the strikers can coerce the employers to yield to them certain terms that they demand. If that is the inherent right of a worker, namely, to go out on strike whenever he chooses, why should the Honourable Member proceed to penalise his action? If there is any justification on the part of the employer, he can utilise the ordinary law of the land against the worker. If I am under a contract with an employer and I cease work without giving due notice required by law, I can be hauled up in any civil court for damages. Why does the Honourable Member wish to import criminal intentions into action of this nature? What is the justification for it? Let us take the example of a railway. If a worker ceases work suddenly, without giving notice, he is inflicting a hardship upon the railway system and upon the public. When we realise that the very basis of a strike is the infliction of hardship, we must

[Diwan Chaman Lall.]

realise that there is no basis for the contention mooted by the Honourable Member. A strike is essentially an infliction of a hardship; it may be upon the employers; it may be upon the public. It is the last resort of the worker, in order to compel the employer to yield certain terms of employment to him which he would not otherwise give him. The ordinary law of the land is there. The Civil Courts are there. The Honourable Member knows perfectly well that, if a worker stops work without giving due notice, he can be hauled up in the Civil Court and damages obtained from him. Why do you want to go beyond that?

My friend, Mr. Fazal Rahimtulla, waxed very eloquent on this particular matter and said that this clause was not penal, that it was not a slave clause, that there was no semblance of slavery in it. I interrupted him at that time and I want to explain exactly what will happen. Take the North Western Railway. Workers cease work. Under this clause, they must give notice of 14 days, and suppose they do not go out on strike within a month of giving of that notice, during that period, according to my friend, Mr. Fazal Ibrahim Rahimtulla, an opportunity is given to the employer to obtain the services of black legs in order to down the employees. If that is the proposition which my friend placed before this House so openly, frankly and honestly, does he not realise that he is placing a weapon in the hands of his employers which is going to be used to the detriment of the workers?

**Mr. Fazal Ibrahim Rahimtulla** (Bombay Central Division: Muhammadan Rural): Why?

**Diwan Chaman Lall**: I will explain why. Now, the employers know perfectly well that if the employees are going on strike, then, according to the showing of the Honourable Member, the employers will proceed to employ black legs. In other words, they will proceed to break up the strike. They will proceed to break up the organisation of the employees, and still the Honourable Member who mooted this very proposition wants to ask how it will act to the detriment of the employees. Does he realise that the whole basis of a strike is to win certain conditions out of the employers by coercing the employers?

**Mr. Fazal Ibrahim Rahimtulla**: And causing inconvenience to the public.

**Diwan Chaman Lall**: My friend says "causing inconvenience to the public". I do not mind to whom the inconvenience is caused. Does the Honourable Member realise that the conditions of employment are so bad that the employees are forced to go out on strike and that the employers are actually causing grave hardship to their employees?

**Mr. Fazal Ibrahim Rahimtulla**: Question.

**Diwan Chaman Lall**: My friend says, "Question". It is very easy to question, not knowing anything at all of the subject.

**Mr. Fazal Ibrahim Rahimtulla**: You know better?

**Diwan Chaman Lall**: If these workers resort to a strike, it is because it is the last weapon that they possess. If they go on strike, they do not do so light-heartedly. They do so only when they have tried every other weapon that they could employ and found them useless. They go on

strike to show that the conditions of their employment are such that they would sooner put up with starvation than work under the conditions in which they work. The Honourable Member knows the reason why. I would ask him once again to concentrate upon the main problem. The Honourable Member admitted himself, to the loud applause of the Treasury Benches, that the one aim and object of giving this notice is to enable the employer to obtain the services of black legs.

**Mr. Fazal Ibrahim Rahimtulla:** And thus save the industry from ruin.

**Diwan Ohaman Lall:** I will come to that. You would ruin human beings in order to save the industry. (Hear, hear.) That is what it amounts to. I want my Honourable friend to concentrate upon this for a minute. He will realise that he himself has given the whole show away and his plan is to compel the workers to give notice, so that the employers may be in a position to secure the services of black legs and thus break up the strike. I ask the Honourable Member whether that is his intention. Is it or is it not his intention? What is the basis of this particular clause? The basis of this particular clause is to provide a weapon in the hands of the employers, and the Government is one of the biggest employers in this country.

Now, the Honourable Member was talking yesterday in regard to the conditions prevailing in other countries in connection with legislation on this subject and he compared the conditions that prevail in Great Britain. May I ask, in all seriousness, if he is providing now against the right to strike? There are other things also provided for in the legislation of Great Britain. Why does he refer, time and again, to those things and why does he refer merely to those things which are useful to him for the moment? For instance, has he ever done anything to cast his glance, to cast his eye, upon legislation which brings great relief to the working classes of Great Britain of the type of maternity benefits or of old-age pension and of unemployment schemes? These things, which are going to help the working classes in this country, my friend will not copy, but what he will copy is the penal clauses which prevent a worker from declaring a strike, although he has every right to declare a strike and take the consequences in a civil court. Why should he cite the example only in regard to penal measures employed in other countries against the workers, and why should he concentrate the attention of the Government upon such measures only? Why not concentrate their attention upon measures of relief, such as those that I have cited, which obtain in other countries and which do not obtain in this country? It would be much better, both for the Honourable Member and for the Government, if that were done.

I submit, Sir, that the right to strike is an inherent right amongst the working classes. It is the right which is applicable to the Honourable Member over there as much as it is to me. Suppose the Honourable Member over there takes it into his head to turn himself into a Swarajist and says: "I will not look at these files in my office any more and I will have nothing to do with my Honourable friend Mr. Crerar and my other colleagues, and I refuse to attend my office because I have taken into my head to become a Swarajist", does he mean to make out that, if he did that without giving notice to the Governor General in Council of one month, he would be called upon to serve one month's imprisonment in His Majesty's jail for having suddenly struck work?

**Colonel J. D. Crawford** (Bengal : European): He should.

**Diwan Chaman Lall**: Let me take another example to show whether this system prevails in any Government office today where the workers have the right to cease work and take the consequence in a Civil Court. It is essentially a civil liability; why import criminal liability into this matter? The only ostensible reason is merely to break the back of the labour movement in this country and to compel the employers and the Government to utilise a weapon in order to break the back, not only of the working class movement, but to break the back of every strike in the public utility services.

Let me take another example. My friend knows it perfectly well, that when a strike takes place in a public utility service without notice the workers have some justification. But if they have to give notice, then they will be victimised by the employers and by the Government, acting as employers during the period of notice. Is the House going to empower the Honourable Member with this power, which would result in the victimization, during the notice period, of the employees, which will also entail enormous hardship upon them? Every man who is involved in the giving of a notice of this nature will be a marked man, not only for the time being, but for all time to come. On the other hand, if a sudden decision is taken, and they have a right to take a sudden decision if they so choose, to cease work and take the consequences, then, in that case, the entire movement is involved, and if there is any victimization it is against the entire movement and not only against the prominent men who are involved in the strike. Now, I submit that it is an unfair weapon to hand over to the employers and to the Government which is going to be utilised against the workers whenever there is a sudden strike.

There is one more argument that my Honourable friend advanced, and that was the question of the inconvenience caused to the public in a public utility service by the workers going out on a strike suddenly without notice. Does the Honourable Member know of any strike that has taken place so far in which inconvenience has not been caused to the public? Let me take the case of the vegetable sellers or the ghee sellers or the meat sellers in the City of Bombay. Suppose my friend Colonel Crawford suddenly takes it into his head to become a labour leader and says: "I do not want you to work any more and I want you to go on strike", and suppose the workers follow his advice, will not that cause a hardship to the public? Is there a single strike that my friend can contemplate which is not likely to cause a great deal of hardship, if not to the entire community, at least to certain portions of the community? There is no strike which does not cause first and foremost enormous hardship to the workers themselves. My Honourable friend knows this perfectly well,—and I will yield this much to him that he has got a generous heart as far as his own department is concerned with regard to his own employees,—what the hardship of the employees is whenever a strike does take place. It causes enormous suffering to the working classes, and who are the working classes? My friend Mr. Fazal Ibrahim Rahimtulla might draw a very subtle distinction between the public and the working classes, but he has always been, in my opinion, rather shaky about his arguments and statistics. The public means 98 per cent. of the population, namely, the working classes. There is no distinction between what is known as the public and the working classes

in this country. The working classes are the public. The public does not mean my friend Colonel Crawford, or Mr. Fazal Ibrahim Rahimtulla, or a few chosen intellectuals of this country.

**Mr. Fazal Ibrahim Rahimtulla:** It means Diwan Chaman Lall.

**Diwan Chaman Lall:** It means the 98 per cent. of the people of this country who are the working classes.

**Mr. Fazal Ibrahim Rahimtulla:** And who are responsible for the strikes and causing hardships to themselves.

**Diwan Chaman Lall:** My friend seems to be suffering from a touch of irrelevancy, and I do not know what he is talking about. If he will only concentrate his mind upon what I am saying, then he will find that I am correct when I say that the public means 98 per cent. of the country, namely, the working classes. If any hardship is caused, it is caused to them. I submit there is no justification for giving this power to the Honourable Member to make strikes in public utility services illegal. And why do I say that? I say that because, so far as my Honourable friend said the other day, there have been cases in municipal areas where certain classes of workers have been prevented from strikes.

**The Honourable Sir Bhupendra Nath Mitra:** If that statement is ascribed to me, then I do not remember having made any such statement yesterday.

**Diwan Chaman Lall:** I think the Honourable Member said yesterday that there are laws already existing in this country which made penal certain classes of strikes among the public utility services. If the Honourable Member will refresh his memory and look up his notes of his speech he will find that he did make a reference to them, and it is to that that I am making a reference now.

Take the case of the scavengers in Bombay. I want my friend Mr. Fazal Ibrahim Rahimtulla to refer to that. The scavengers in Bombay are prevented, according to the local legislation, from going out on a strike without giving notice. But has that ever prevented them from going on strike? How many times have these scavengers gone on strike during the last few years? I remember to have dealt with these strikes myself and I also remember that the motor cars of my friend, Mr. Fazal Ibrahim Rahimtulla, the Rolls Royces, Wolsleys and magnificent saloon cars, waited outside my door when he found that the conditions in Bombay City were getting so abominable, and I tried my level best to bring those strikes to an end. But may I know what sort of penal action was taken against them? Against how many people is the Government going to take penal action? There are roughly 100,000 workers in the North Western Railway. Supposing they took into their head to go on strike, am I to take it that the Government is going to set up a new prison for them or convert the Viceregal Lodge into a prison? If you pass a law which you know you cannot put into force effectively, then there is no use in passing it. (Hear. hear.) What is the good of making your own Statute-book the laughing-stock of the world? The Honourable Member knows it perfectly well that it is not possible to proceed against hundreds and thousands of workers who may be involved in strikes in public utility services and take action against them. What will happen will be this. A few men who happen to be the leaders of these strikers, who happen to be the brains of the strike, or who happen to be the well-wishers,

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they will be got hold of by the Government, but the men who did go out on strike and actually did commit an offence against this Bill, they will not be arrested, because it is not feasible, it is not practical politics to put them all into prison.

I was referring to the Bombay scavengers. I remember the last but one strike that took place in Bombay. In connection with that strike, notices were issued against the scavengers, but no action was taken. Proceedings were started and withdrawn. They were evicted from the quarters they were occupying, in order to put pressure upon them to get back to work, but it was discovered that it was not practical politics to get hold of every scavenger in Bombay and put him in prison.

I ask the Honourable Member, if that is the position, why is the Honourable Member insisting upon passing legislation of this nature, knowing perfectly well that legislation of this nature cannot be effectively employed against every offender who has been proved to be an offender? If the North-Western Railway Union declares a strike without notice, every member in that Union is a party to that strike and does actually go out on strike and commits an offence, knowing perfectly well that an offence is committed by a striker going out on strike. If that is so, and the offence is proved, does my Honourable friend say he is prepared to put every man jack of them into prison, because they have gone out on strike? I ask, has it ever been done in any country where such legislation exists? Has action ever been taken *en masse* against the offenders?

Now, Sir, we have got another example of legislation of this nature, namely, the Post Office Act. That is the Honourable Member's Department and he knows perfectly well the facts of the case. I think it was in the year 1922, when the postmen in the Punjab went out on strike. No notice was given. How many people were proceeded against, whether the entire body of postmen was put into prison, or how many were taken action against is well known to the Honourable Member. I submit, therefore, that it is not feasible, it is not practical politics to imagine that Government are going to take action against the entire body of men who have openly and obviously declared that they are going to break the law, because the proposition is too enormous to be tackled by any Government. If that is so, what is the necessity for it? What do you gain by it? You gain one month's time. For what? Preparing what? How does that help to prevent the workers from going out on strike? The Honourable Member knows perfectly well that he cannot prevent the workers from going out on strike. It is not possible to devise any method of legislation which can prevent the working classes from going out on strike when they find the conditions of their employment onerous. All you achieve is the postponing of the strike by one month. And what after one month? You have the same hardship which will be caused in the end. It is not possible to create and manufacture, as my Honourable friend, Mr. Fazal Ibrahim Rahimtulla put it, it is not possible to manufacture engine drivers and other technical men employed on your railways.

**Colonel J. D. Crawford:** What about the general strike at home?

**Diwan Chaman Lall:** What about it?

**Colonel J. D. Crawford:** Did not the public carry on their duties?

**Diwan Chaman Lall:** Was the Honourable Member in England at that time? Does he know anything about the general strike? He knows that it was by permission of the Trade Unions that the necessary services were carried on, that the milk supply was carried on, that light was allowed in London. It was with the permission of the trade unions and it was with their assistance that the services were carried on. He knows perfectly well that the strikers themselves helped to carry on the services.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Thirty days' time will serve the purpose for settlement of a strike.

**Mr. J. C. French** (Bengal: Nominated Official): I was in England, Sir, at the time, and I say that the Honourable Member's statement is quite wrong.

**Diwan Chaman Lall:** What is wrong?

**Mr. J. C. French:** The services were not carried on with the permission of the Trade Unions, but by completely outside agents.

**Diwan Chaman Lall:** I said, if the Honourable Member had only listened to me, I said, that the necessary services were carried on, such as the milk supply, by the Trade Unions themselves and with their permission.

**Mr. J. C. French:** I have to contradict my Honourable friend. I was in England at the time, and regret to say that I found things otherwise than as stated by the Honourable Member.

**Diwan Chaman Lall:** Where was the Honourable Member? Was he in the Orkney Islands or in Belfast at the time?

**Mr. J. C. French:** I was in Dover and London.

**Diwan Chaman Lall:** If the Honourable Member will refer to the documents, he will find that what I am saying is perfectly correct.

**Mr. J. C. French:** This is from my own observations.

**Diwan Chaman Lall:** The Honourable Member's observations in a city with 7 millions of population cannot be trusted. If he refers to documents, and to the actual facts as they have been published, and as stated on the floor of the House of Commons, he will find that what I am stating is correct. I know that it was an inadequate service, but the question is not relevant to the matter I am discussing. I am discussing the fact that the Honourable Member, by passing this legislation, will be defeating his own purpose. First of all he cannot stave off strikes. It is not possible to manufacture technical men to deal with these services in the course of a month. It is not possible to get hold of engine drivers to run railways in the course of a month, or to obtain men for any of the essential services. That is the second point. The third point is that it is not practical politics to be armed with legislation of this special nature and find that it cannot be put into force against a large body of men, that it is impossible for the Honourable Member to make use of this legislation.

I have given an example of what happened in Bombay, where legislation of this kind has proved hopeless in regard to the penalty clauses, because it was not possible to proceed against large bodies of men who had gone on strike. I submit that no case has been made out for it,

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and that it is merely a panicky sort of legislation, because the Government have been very much frightened, have been frightened almost out of their wits by the fact that they have been manufacturing, in their own offices, enormous propaganda against Communism. They have issued pamphlets like the one issued by Mr. Coatman, which was supposed to frighten Honourable Members out of their wits, in regard to the existence in this country of a Communist conspiracy. I can assure the Honourable Member that there is no necessity whatsoever of getting frightened in the way that he has been. There is no necessity whatsoever, at the present moment, to go and copy legislation which exists in England, and foist it on the present trade union movement in this country. Because another country has made a mistake in regard to this matter is no reason why we should follow suit. Because the Conservative Party has been trying to work against the labour movement in England is no reason why we should blindly follow suit. They have done so in order to protect themselves against the Labour Party. It is not practical politics to bring in legislation of this nature and disgrace the Statute-book when such legislation can never be used.

**Mr. T. A. Chalmers** (Assam : European) : Sir, I would like to say a few words on the public utility services.

The number of people engaged in public utility services cannot be more than about 2 millions. Is it conceivable that the bulk of the rural population, about two or three hundred millions, chiefly agriculturists, are going to allow themselves to be held up to ransom by a small industrial minority? Perhaps I should explain more clearly what I mean by "holding up to ransom." Previous speakers have attempted to show

12 NOON. that nothing very serious would happen if, owing to a strike, the Frontier Mail stopped and Members of the Assembly had to walk home. I quite agree that, after weeks of inactivity, a little exercise might be good. Trade Unions are organised for the benefit of their members and they do not do things by halves. It is their business to strike so that it will be of some benefit to their members. They will select the right time to strike. They will try and make a lightning strike and they will also try and make it a general strike so as to get what they want. Quite recently the House listened with some anxiety to the Honourable the Commerce Member when he explained the difficulty of moving something like one-fourth of a million tons of food stuff from the ports to the famine districts in the United Provinces, owing to the sudden traffic disorganisation. There is a very serious famine in the United Provinces and I quote, in this connection, from tomorrow's *Hindustan Times*. (Laughter) :

"Labouring classes and petty tenants who were so far living on starvation wages earning their pittance every day are the worst sufferers. They are anxious to get some work to earn a few pice even, but there is none to engage them. On Nohjhil side in Mant Tehsil one can get hundreds of labourers for six pice a day. Cases of acute distress have been noticed."

This is written by the Secretary, Seva Samiti, Muttra.

The Honourable the Commerce Member explained the difficulties of looking after these districts and he explained how it was necessary to send thousands of wagons and locomotives to the port of Calcutta to help in the good work. Here was an opportunity for organised trade unions to combine

and declare a strike and thus hold up the country to ransom. Could any Government, Christian, Muslim, or Hindu, stand out any length of time and see their people suffering and starving?

**Pandit Thakur Das Bhargava** (Ambala Division: Non-Muhammadan): Are the Government not standing still and watching?

**Mr. T. A. Chalmers**: No; they would have to pay that ransom whatever the cost to the country. They would have to feed the people anyhow.

**Pandit Thakur Das Bhargava**: They are not feeding, but bleeding.

**Mr. T. A. Chalmers**: They are feeding. They are bringing food from other parts of the country and that brings the food within the reach of the people at a price much lower than they would otherwise get it. The sole object of a strike on the part of the strikers is to get their demand. There is no other object in having a strike at all. You could not blame anybody for taking advantage of a certain situation in order to enforce his demand. The Government might be caught like that for the first time, but I think any well organised Government, which has the interest of the people at heart, will take care not to be caught a second time, and it is for this reason that I support the Bill, because it is entirely for the protection of the public.

Now, I beg to say a few words from the labourers' point of view. The public is always prepared to give up some of its rights if it is for the benefit of the public as a whole. But in this case you are not taking away the privilege from all the public. You are taking away the privilege from some of the public and that is an important provision. You are taking away from the labourers employed in the utility services the right of making a lightning strike. That is, you take away that right so that they cannot impose their demands on the employers. I say that, for the general good, it is right and proper that you should control these people, that they should not be allowed to penalise the public in order to force some demand on the employer. But who are these employers? In most cases of the public utility services, it is the State, and sooner or later all public utility services will come under State control. Now, if you take away that privilege from the labourer, it is up to the House and to the Government to see that these labourers do not lose any material advantage through having lost this privilege. So, I put it to the House that, if this Bill is passed, you should see that these labourers, who are really employees of the State, should get the same privileges and conditions that other employees of the State get in respect to pensions, housing and all the rest. Sir, I support the Bill.

**Lieut.-Colonel H. A. J. Gidney** (Nominated: Anglo-Indians): Sir, I desire to speak on this motion as representative of a community which is very largely employed in the utility services. I think I can, without any exaggeration, say that my community have always stood by Government and have not demonstrated their distrust of their employers by going out on strikes. Indeed the Government have always looked upon the Anglo-Indian community as dependable and loyal and ready to stand by them whenever there was a strike. Therefore, if today I express views that are not in agreement with those expressed in the Bill I must have some very serious and good reasons for doing so. When I spoke on this Bill last year on its first presentation to this House, I expressed myself in very decided

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terms against clauses 15 and 16, for I considered them as seriously infringing or interfering with the civic rights and liberty of employees in the various utility services. I submitted then, and I submit with equal emphasis today, that the employees are just as much deserving of the consideration which Government desire to give to the employer, *i.e.*, themselves, in this Bill. Sir, when I look into the problems of Indian labour, along with clauses 15, 16 and 17 of the present Bill before the House, I am driven to ask myself the question, why has clause 15 been included in this Bill, and why is clause 15 confined almost entirely to utility services. Is the employee or Government to blame? For years this House has been pressing upon Government, especially the Railway Member, the necessity of forming complaints departments, so that employees will be afforded opportunities for presenting their grievances. I have demanded this for the railways for the past 4 years. But a deaf ear has been turned to our requests. If the Government had shown more sympathy and granted those demands I believe that clause 15 would not have found a place in the Bill; indeed there would have been no need for this Bill. We have many instances, Sir, in which the grievances of the employees have not received adequate attention or sympathy. Had clause 15 referred only to employees connected with mills and other such industrial establishments, I should not have had much objection against it.

**An Honourable Member:** Why?

**Lieut.-Colonel H. A. J. Gidney:** Well, I will let you know in a moment, if you have a little patience. The inclusion of utility services shows that Government must have some reason for doing so. Now, Sir, are there any terms of employment in existence between employers and employees today? There is a service bond, or agreement, between the railways and their employees of one month's notice on either side, or pay in lieu of notice. This bond, I consider, gives the railway authorities ample protection and safety and if the men transgressed that term or agreement the Civil Courts of Law are open to the authorities for redress. Mr. Chaman Lall, in the course of his speech, placed a very important point before us. He said this Bill replaces this civil legislation by criminal legislation, and an offender is liable to jail for violating clause 15, and that Indian labour unions protest against its passage. Government, however, consider it necessary, because they look upon railways as industrial concerns which cannot be used as political weapons by politicians. Other terms of agreement are in force on railways; for instance, the term of agreement between certain classes of engineers and the Secretary of State, according to which the services of these employees can be dispensed with without previous notice. I have the terms of agreement with me, according to which the services of an officer can be dispensed with, without previous notice, "dismissed or discharged from the service, and upon such dismissal or discharge we will peacefully leave the service". Now, Sir, what is the reason for Government introducing clause 15 into this Bill? There is no doubt that Government, very rightly no doubt, wish to prevent lightning strikes in utility services. I am against all forms of strikes for, in my opinion, strikes strike the strikers, the hardest. The Government, in demanding fourteen days' notice, certainly have two objects in view:—(1) during this period to induce the men to resume work, and (2) to enable themselves to make other arrangements to meet the situation. Now, Sir, I am against—

and the community that I represent is against—strikes, except as a *dernier ressort*. But you cannot get away from the fact that a strike is not an illegal measure; it is a legitimate weapon of defence all the world over; and to deprive a body of workmen of the right to defend themselves when they are driven to it as a last resource, is I consider, an utterly unjust thing to do. Let me give an instance in which an employee is driven to violate this clause. The case of a man employed in the railway; he is punished for some fault; he objects to the punishment and resigns without notice, because he feels sure that if he gives his 14 days' notice his officer or overman will have his knife into him and not wait for the 14 days' notice to expire but will dismiss him from the service, the result of which is to him more serious than even jail, for the House knows that to a railway man, once he is dismissed from a railway, the doors of all railways are closed for ever. This, I submit, is a case where the giving of fourteen days' notice will expose an employee to graver dangers than the violation of clause 15, and I would not blame a man if he declined to give notice.

**The Honourable Sir Bhupendra Nath Mitra:** But that is not a strike. It is an individual case.

**Lieut.-Colonel H. A. J. Gidney:** But supposing 20 or 30 employees in a particular section of a railway workshop or crew system do that, or supposing this happened in any other section, will it constitute a strike?

**The Honourable Sir Bhupendra Nath Mitra:** It depends on the circumstances.

**Lieut.-Colonel H. A. J. Gidney:** Thank you, but what do you mean by circumstances? The employer and employee may not think alike on this. These are the reasons, Sir, that make one hesitate before supporting clause 15. Now, Sir, I said in my speech in September, 1928 that I was in a measure, opposed to clauses 15 and 16. I have, however, reconsidered the matter in the light of present day circumstances. I refer to the Labour Unions in India today and their activities and there is one point which has made me alter my opinion almost completely, and that is the recent meeting at Jherria of the Amalgamated Railway Unions. I see my Honourable friend, Diwan Chaman Lall, is getting up already . . .

**Diwan Chaman Lall:** May I ask the Honourable Member which particular meeting of which particular body he is referring to?

**Lieut.-Colonel H. A. J. Gidney:** It took place, if my memory serves me right, in December or January last.

**Diwan Chaman Lall:** Which body, which organisation?

**Lieut.-Colonel H. A. J. Gidney:** It was the Amalgamated Railway Union.

**Diwan Chaman Lall:** The All-India Railwaymen's Federation?

**Lieut.-Colonel H. A. J. Gidney:** Yes; I think it was that body but I am not quite sure of the name. Anyhow, the report of that meeting appeared in the *Englishman* in which it stated that they had elected two

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of the leading communists in India, Messrs. Bradley and Spratt, as life-Presidents of that Union and that, they had affiliated their society with the Third International in Moscow. When I found that . . .

**Diwan Chaman Lall:** May I interrupt the Honourable Member? I may correct his information as far as I am aware. The All-India Railwaymen's Union has not elected any life-Presidents. That is No. 1. No. 2 is that it is absolutely incorrect to say that the All-India Railwaymen's Federation is affiliated to the Third International.

**Lieut.-Colonel H. A. J. Gidney:** Sir, I read this account in a very trustworthy paper—the *Englishman*.

**Diwan Chaman Lall:** I am sorry to say that that paper is very unworthy. I am giving the Honourable Member correct information.

**Lieut.-Colonel H. A. J. Gidney:** The Honourable Member has corrected me, but I should like to have documentary evidence. When I read that decision, I at once decided to support clauses 15 and 16 as I felt it would be better for a few to suffer at the hands of official repression than our utility services become hot beds of communism, and Sir, it is for this reason, one which I believe the Government had in view when it introduced this Bill, i.e., to antidote the introduction of communism into the railway labour movement, and on this ground, and on this ground alone, do I support this clause 15, and am I prepared to be a party to sacrifice the rights of an employee in the interests and safety of India and its Labour Departments, which I opine must be purged of all communistic tendencies if we are to attain Dominion Self Status.

**Mr. S. Srinivasa Iyengar:** Mr. President, I support the deletion of the clause now under discussion, and I have very little to add to Diwan Chaman Lall's able and exhaustive speech. I would only point out that, in my unregenerate days, when I was studying law, I heard from a great authority, the founder of the historical method in jurisprudence, and the history of legal institutions, that the movement in law and society has been from status to contract. The movement today, which I see in this Bill is back from contract to status. It is no doubt a mischievous attempt to make contractual relations come into the ambit of criminal law and procedure. We have been trying to get out of difficulties in criminal law and procedure in respect of workmen's breach of contract and so forth. Now it is a rather curious phenomenon, may I say a sinister phenomenon, that we should be asked to sanction, in these days, that workmen should be penalised under the criminal jurisprudence for breaking a contract, or for not giving sufficient notice to the employer of his desire to cease work. That is the main ground of course upon which all Members who oppose this clause oppose it. But in considering the detailed provision in this Bill, there is a great deal of force, I submit, in Diwan Chaman Lall's plea that it will be a futile piece of legislation. For the classes, to whom this clause 15 is to apply, are not likely to be deterred by one month's imprisonment or by any imprisonment which they may have to suffer by default of payment of any fine imposed. And even this imprisonment and fine will be imposed upon them only after trial before a Presidency Magistrate or a Magistrate of the First Class, after the sanction of the Local Government or of the

Government of India has been obtained. It is perfectly obvious, therefore, that if, without giving any notice, they go on strike, there is nothing really to prevent that strike from being effective. It is a futile provision, this provision for prosecution of these workmen long after the supposed mischief of the strike in the case of any public utility service has been done.

That is one objection even from the point of view of the administrator. Another objection is that this is really an unnecessary measure, for, as I pointed out yesterday, having regard to the class of people we are dealing with, it is impossible for them to resort to a strike on starving stomachs, and they are not likely to resort to strikes, whatever the instigation and whatever the inducement, unless the grievances are such, and unless their feelings are roused to such a pitch, that they think they must go on strike and face starvation and hunger and all the consequences of a strike. As I said, that is the necessary limitation of this right to strike and we might, as political philosophers and legislators, very well leave to the operation of that natural limitation the strike movement. I say it is unnecessary to impose upon this right to strike any artificial limitations which will frustrate their own object. I do not see how this giving of a notice will be of any use either to the employer or to the employee. Except possibly as regards public conservancy and sanitation, it is impossible to see how, within fourteen days from the time allowed, employers are going to get a sufficient number of skilled men or trained men or other men to take the place of those who have given notice to strike. Therefore, Sir, it is really as a deterrent that it is proposed by this Government, for as I pointed out, they will have gone on strike and they will have done all the supposed mischief for which they are held to be responsible long before the prosecution and conviction take place, and I have pointed out that the notice will, in the majority of cases, be of no use. Therefore, it is merely by way of preventing these people by the imposition of pains and penalties that this is supposed to operate. I do not think the class of men whom we are dealing with will ever be moved in the exercise of their right to strike by this one month's simple imprisonment or the fine which is imposed. I consider therefore, Sir, that this is a wholly misconceived piece of legislation—first, from the jurist's point of view because it is ineffective and uncalled for, and secondly, from the point of view of those who have got to bear the rights of workmen in their minds when dealing with proposals of this description. I submit also that there is a great deal of force in what my Honourable friend, Mr. Chalmers said, that the Government should have provided guarantees for proper wages and for improved conditions of labour before they undertook legislation of this description. The only difference between Mr. Chalmers and myself is this: he wants the Assembly to pass this legislation and afterwards that the Government should provide adequate improvements in the services. But what I ask is this. Is there any guarantee, is there any legislation by the Government, entitling the workmen in these services to get a fair level of wages and satisfactory conditions of employment? There is no such legislation imposing obligations on Government. Therefore, Sir, when you have not proceeded to ensure that the conditions of labour are thoroughly satisfactory, it is idle to ask Members on this side of the House to vote for a piece of legislation which, on the face of it, is so wholly one-sided.

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Again, Sir, I think that the efficacy of the right to strike will be taken away altogether by requiring the workmen to give 14 days' notice in this prescribed fashion. It is really, as I began, a form of statutory serfdom that is sought to be imposed upon the classes of people, to which no doubt we can point parallels in early times, in mediæval times in all countries—in India as well as other countries—as for instance *kudi mara-math* and *begar* in India—and various kinds of forced labour were made available in the exigencies of social conditions from time to time. Are we to have in these days, having regard to the international status of labour problems, are we to have forced labour? That is what it comes to, if it is to be operative. As I pointed out, it is not going to be operative. There is no use my Honourable friend on the other side saying, "If it is not going to be operative, why not pass a Bill of this description?" I am sure he will not resort to an argument of that kind, and therefore it is hardly necessary for me to reply to that. But I really am unable to understand what are the reasons for trying to make forced labour available to the Government or to public bodies or to other employers who may have to deal with these so-called public utility services.

Sir, I have very little to say by way of strengthening the arguments of my Honourable friend, *Diwan Chaman Lal*, as to the public utility services. This is one of those formulæ which are frequently employed for the purpose of paralysing our imagination and our reasoning faculties. If we were to examine it closely we would find that public utility services mean nothing but those services in which a greater amount of inconvenience is caused to a larger proportion of the public, than other services; that the inconvenience which is caused in other services is not so great. Beyond that I am really unable to see how you can say that any kind of service is not of public utility. I presume trade and commerce are equally of public utility. It is only a question of degree, and when Honourable Members decant upon these public utility services, I am sure they only refer to the degree of utility and not to any absolute standard of public utility, or private utility, or any other kind of utility. We are now concerned more with the right of the workman rather than with the right of the employer; and it is idle to assume that the public is composed, not of the workmen, but of the employers. Take these very cases. Supposing the working class people as well as their families want to travel by railway. If there is a strike, they are put to as much inconvenience as the others, indeed to more; the third class passengers are put to greater inconvenience than the first class passengers who may possibly go by aeroplane or motor car or by other kinds of conveyance. I really do not know that the working classes, who form the majority of the people, are not put to as great inconvenience as the others. Then again, Sir, with regard to posts and telegraphs and telephones, it is quite obvious that the working classes will certainly be hit as much as others; certainly in the postal service; and perhaps to a lesser extent in the telegraph services; and if in any industry, or business or undertaking which supplies light and water to the public, work is stopped for some time, it must seriously affect the workmen themselves. I suppose they have to get water and light as much as others, and I cannot understand why it should be assumed that the workmen, who form the majority of people in every country, and particularly in this country, will not be affected.

Therefore, Sir, I say, the sanctions are already there. The fact that they will be starving if they go on strike precipitately and without due and adequate reason, the fact that the cessation of work in these public utility services will affect them much more severely than the richer people who could provide themselves in other ways with these facilities—these sanctions are already there; and therefore I submit that the right to strike must be left to these natural safeguards, which as I pointed out yesterday, make the right to strike a double-edged sword, with the edge naturally keener and sharper against the starving millions of the country rather than the edge which is turned towards the employer. The edge which is turned towards the employer is certainly blunter than the edge which is turned towards the striker, and therefore I will leave it as it is. It is wisdom and right politics, and the proposal which is made by my Honourable friends on the other side is, I submit, a wholly unnecessary, unjustifiable and futile proposal, which is going to benefit neither the employer nor the workman. It will exasperate feelings; it will create greater insecurity in the country, and if the workmen are deprived of what has till now been regarded by them as a valued right, it will act as a lever with which to start fresh movements. I do not know how far my Honourable friends on the other side really feel about the communist movement in this country, and I am not certain that they will not add to the spread of that movement rather than curtail it by this legislation. However, Sir, those are questions which concern the Government, and I am not in a position to advise them as to what their duties should be. I am more concerned with appealing to such of my friends as have their hearts still open, as have their intelligence and reasoning faculties still unconverted to this very callous and injudicious piece of legislation which has been proposed by the other side, and I must therefore address myself only to those Honourable Members. I submit, Sir, the proper way in which employers can protect themselves is by organising themselves. They can have counter organisations, as they have in Western countries, and Conciliation Boards and Courts of Inquiry will certainly enable them to come to terms with these workmen. I suppose that if these things are properly worked in the spirit in which such things should be worked, there will not be any necessity for strikes. Therefore, Sir, I would say that this clause 15 must be held over till the rest of this Bill has been put on the Statute-book and it has had full operation for a period of time. I am not one of those, who will be against any due safeguards to well-ordered but wholly democratic society, but I do not believe that a well-ordered society can exist without due safeguards to the working classes, and their prosperity and their welfare must be the first concern, even more than the welfare and prosperity of the employers or of a Government. No Government can be stable, and no Government can exist with the suffrages of the people unless it makes its primary duty the safety and welfare of the working classes. And to tell me in these days of labour organisation, when the average workman is as intelligent as anybody else on the other side or on this side, that the workman is not able to judge for himself as to what is good and what is not good for him and that it requires various kinds of degrees and high Government offices and seats in the Assembly and Councils before we can judge of what is right and proper for him, is to me a preposterous thing. I have moved among the representative men of the working

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classes of this country, and I can say, without any fear of contradiction, that the average working man of this country is quite as intelligent as any one else. His natural intelligence is really high. These working men follow movements; they can follow even the debates in this House, and they are able to judge what is good and what is not good for them. In these circumstances, Sir, it is not necessary for the Government to bring forward a provision of this character, by which they say that, even the working classes have to be saved from their so-called leaders and others who, for the sake of some profit, or for the sake of vanity, want to exploit the poor, helpless working classes for their own aggrandisement. That is not so. It is an insincere attempt on the part of any Government to tell us that they have got at heart the welfare of the working classes more than the Members on this side of the House and more than the working classes themselves. That is a proposition to which no sensible man in these days can at all agree. Therefore, Sir, I have not the least hesitation in supporting my friend Diwan Chaman Lall's opposition to this clause and his proposal to delete this clause. Here I would earnestly ask all my friends to look at this question with unprejudiced eyes, and not with minds already made up. This is not a party question; this ought not to be a political question. This is a purely economic and social question, and we are concerned with the amelioration of the economic and social conditions of the working classes. We know that they are not yet a political power in this land. When they become a political power, when they become a big political party, when they form a Government as they should, there will be time enough for us to take other steps and protect the capitalists and Government, but to do so now, in their present condition, would be inflicting a great hardship on them, because, if you seek to deprive, either absolutely or even with substantial modifications, the workmen of their right to strike, which is a political right, which is a legal right, subject to the liability in damages, it would mean a grave hardship to them. For these reasons, Sir, I support the omission of clause 15.

**An Honourable Member:** Sir, I move that the question be now put.

**Mr. Jehangir K. Munshi** (Burma: Non-European): Sir, there is one important point which the Honourable Member in charge of the Bill has not made quite clear. I do not know, Sir, whether it is the object of the Government of India to make only a lightning strike in the public utility services illegal or whether it is their intention entirely to deprive the workmen in a public utility service of their right to strike in any form or manner whether "lightning" or otherwise?

**The Honourable Sir Bhupendra Nath Mitra:** May I reply to the Honourable Member's question, Sir? As the section stands, it deals only with lightning strikes, and that has been admitted by speakers on the other side.

**Mr. Jehangir K. Munshi:** I am really concerned with the intention of the Government of India and not with the alleged statements made by speakers on the other side. I am glad now to find, Sir, that the intention of the Government of India is to confine the operation of section 15 to lightning strikes only. Am I right there?

(The Honourable Sir Bhupendra Nath Mitra nodded his head in assent.)

I am also glad to find that the intention of the Government of India is not to take away altogether from workmen in a public utility service the weapon of a strike. Now, Sir, if we pursue our examination and analyse clause 15 of this Bill, we find that a group of workmen who want to strike in a public utility service, have to give at least 14 days' notice of such strike. Now, what would happen? A group of workmen in a public utility service give 14 days' notice of strike to their employer. Their employer, on the same day within a few hours of the receipt of such notice, retaliates by serving on this group of workmen 14 days' notice of lock-out; and he immediately proceeds to make use of these intervening 14 days to obtain the necessary amount of skilled and qualified labour to replace the whole lot of strikers, or rather the whole lot of these workmen who have given 14 days' notice to strike. That, Sir, is perfectly legitimate as the section stands at present. The employer can, within a few hours of his receiving notice of a strike from the workmen, retaliate by serving on them 14 days' notice of a lock-out; in other words, on the expiry of 14 days, even if those workmen change their minds and do not want to put into operation their threat to strike, they will be turned out on the expiry of 14 days, as the employer is allowed to make full use of the 14 intervening days to replace that group of workmen. That being the position, it is no use the Government of India telling us that the only object of clause 15 of this Bill is to prevent lightning strikes. It is not so. Clause 15 goes very much further; it threatens workmen in public utility services with complete loss of employment. If the object of the Government of India is not to snatch away completely from workmen or labourers in public utility services the weapon of a strike in any shape or form, but to confine the operation of this Bill to lightning strikes only, it is essential that there should be a further amendment to section 15 of the Bill so as not to make it permissible to an employer to give notice of a lock-out to his workmen till after the expiry of the 14 days' notice to strike given by the workmen themselves. (Hear, hear.)

I think, Sir, I have made my point clear to the Government of India, and I would like to have a definite indication from my Honourable friend, Sir Bhupendra Nath Mitra, as to how the Government of India propose to meet this objection. I have made it clear that the operation of the Bill is not confined to lightning strikes. As clause 15 of the Bill stands at present, in view of the rights conferred by this clause on the employer, rights which can, and most probably will be, used by way of retaliation, the real result will be that workmen and labourers in public utility services will be entirely and completely deprived of their inherent right and their elementary weapon of a strike at any time in any shape or form. This, Sir, is a very serious inroad on the rights of a particular class of society, to which we cannot lightly give our support. (Applause.)

**Mian Mohammad Shah Nawaz** (West Central Punjab: Muhammadan): I rise to oppose the motion of my Honourable friend Diwan Chaman Lall. I venture to submit that there are some Members in this House who are under the belief that a strike in the postal, or telegraph or telephone service or on the railway services is made a crime, under the provision of clause 15 of the Bill. But it is not the case if we were to read clause 15 very carefully. All it does is to insist that adequate notice

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must be given and that the public utility services so essential for the well-being of the community should not be suddenly closed down as the result of a lightning strike. The principle underlying this clause has been accepted by almost all the countries of the world, the reason being that a private right must not be used to create a public wrong. We all know that the public utility services are the sheltered industries of the country; that is to say, they do not enter into foreign competition, and the wages and conditions of service are much higher and better than in other services. Therefore, the Government have the right to see that the public utility services are not suddenly disorganised.

I have listened to the arguments of those Honourable Members who are opposed to the passage of this clause, but I am not at all convinced that their arguments are sound. This clause applies only to those employees who get monthly wages; it does not apply to daily wage earners. It does not apply to employees of millowners, to employees of private contractors, and my Honourable friend Diwan Chaman Lall is entirely wrong, when he says that 98 per cent. of the workmen are affected by this clause. It affects a very small portion of the workers. The clause is hedged with many limitations. Further it also punishes the employer who locks out his employee without fourteen days' notice.

Then, Sir, my learned friend, Diwan Sahib, said that the clause is meant to disorganise the trade union movement. Nothing of the kind. Honourable Members are aware that the British trade union movement is one of the greatest forces in the world for the economic uplift of the working classes, and yet we know that the labourites have submitted to a similar legislation in England. This provision is really on the lines of the English legislation of 1927. As a matter of fact, we have made the present legislation as mild as we could. The Australian legislation and the English legislation go much further, whereas this clause simply says that anybody who, in breach of contract, does not give notice and suddenly withdraws from the service and strikes is liable to be punished. If a man who is bound to give notice, does not give notice, and if the strike turns out to be a general strike, it will inflict harm on the community, and I submit it is the right of the Government to see that the public utility service is not suddenly closed down . . .

**Diwan Chaman Lall:** Did I understand the Honourable Member to say that this was in consonance with the provisions of the Act of 1927 of Great Britain?

**Mian Mohammad Shah Nawaz:** An analogous section you will find in the English Act.

**Diwan Chaman Lall:** Where?

**Mian Mohammad Shah Nawaz:** In the 1927 Act, called the Trade Disputes and Trade Unions Act.

**Diwan Chaman Lall:** Will the Honourable Member point out the section to me?

**Mian Mohammad Shah Nawaz:** I think it is probably section 2.

**Diwan Chaman Lall:** May I, with your permission and the Honourable Member's permission, read out section 2? It has nothing to do with that. There is no provision in the 1927 Act.

**Mian Mohammad Shah Nawaz:** There is a provision in the Trade Disputes and Trade Unions Act of 1927.

**Diwan Chaman Lall:** The Honourable Member is referring to the 1927 Act known as the Trade Disputes Act, 1927, of Great Britain. There is no such provision in that particular Act.

**Mian Mohammad Shah Nawaz:** As far as I know, there is. My Honourable friend contradicts me. I have not got the Act with me, but I know there is in substance a provision like this, that any person employed by a local or public authority cannot break his contract with that authority so as to cause injury to the public and if he does so, he is liable to pay a fine of ten pounds or undergo imprisonment not exceeding three months. As far as I remember it is section 6 (4) of the Trade Disputes and Trade Unions Act of 1927.

**Diwan Chaman Lall:** Section 6 of the 1927 Act merely refers to funds and has nothing to do with these strikes.

**Mian Mohammad Shah Nawaz:** It is terrible when ignorance spurs on. Read section 6 (4). I have not got the Act otherwise I would have shown you the section 6 (4), which does not deal with funds, as you imagine. Well, Sir, my point is that clause 15 comes into operation only if due notice of fourteen days is not given. But if due notice is given, it does not prevent the workman from striking after the expiry of the notice. All that the present clause says is this, that you must give notice, otherwise you cannot go on strike, and if you do so you are liable to be punished.

**Diwan Chaman Lall:** Is it under the 1927 Act?

**Mian Mohammad Shah Nawaz:** Yes, under section 6 (4) if an employee breaks his contract knowing that it will cause injury to the community, he is to be convicted.

**Diwan Chaman Lall:** No, it is not.

**Mian Mohammad Shah Nawaz:** It is so and my Honourable friend is obstinate not to admit his mistake. It is very difficult to convince him.

Sir, I strongly oppose the motion of my Honourable friend, Diwan Chaman Lall.

**Mr. M. S. Aney (Berar Representative):** Sir, I rise to support the motion of my Honourable friend, Diwan Chaman Lall. Clause 15 to my mind virtually takes away from those who are employed in the so-called public utility services the right to strike. Mr. Shah Nawaz and others have endeavoured to prove that the right to strike remains unaffected, provided certain conditions of notice mentioned in the clause are complied with; but the contention that we on this side urge is this, that the very condition which you want the labourers to comply with is one that virtually takes away all opportunity for them to make an effective strike. That is the position. Mr. Munshi has rightly pointed out that, under the same clause, a corresponding right of retaliation is given to the employer. As soon as this 14 days' notice is given by the labourer the corresponding right can be exercised by the employer. The position that is created is extremely injurious to the interests of labour. The employer gets the advantage of entirely replacing the labour that has gone on strike during

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this period if possible. That apprehension alone will effectually take away from the employees the willingness or even the inclination to strike at all in spite of their innumerable grievances. There is an inter-connection between the two things. When clause 15 and the natural effect it is likely to produce upon the mentality of the employer and employee is taken into consideration, the net result is that the right to strike, which my Honourable friend wants only to circumscribe in the case of public utility services is virtually abolished and abrogated. Any man with common sense can understand the meaning of this and envisage the consequence. It is because of this necessary implication that members on this side, who are as much interested in the maintenance of public utility services as the Honourable Members on the Treasury Benches, are unable to agree to the provision of such a drastic and diabolical nature as this. You promise to retain something in one breath, and at the same time you artificially arrange a device which virtually takes that away.

Secondly, much has been made by my friend, Mr. Fazal Ibrahim Rahimtulla, who is not in his seat at present, of the fact that a dispute in the case of a strike is a struggle between the employer and the employed, and the State which is the guardian of public interests and public welfare has got an inherent right to see that no strike shall be permitted which is likely to cause general inconvenience. The rationale of making a provision in clause 15 is alleged to be that strikes in the case of services of this nature cause general public inconvenience, which it is the duty of the State to prevent. Now, it was ably pointed out by my friend, Mr. Srinivasa Iyengar, as well as by my friend, Diwan Chaman Lall, that no strike is possible which is not likely to create some sort of inconvenience to the public. Strikes imply that. There is a body of people which ministers to the comfort of a large class of people, and when that body of people suddenly downs their tools and goes out on strike, there is bound to be inconvenience to a large section of the people. You cannot conceive of a strike without that. My contention, however, is this—that it is because of the general inconvenience which is caused to the public that the strikers have got the possibility of enlisting the sympathies of the general public on their side and persuading them to intervene on their behalf, as against the employer who is causing them the greatest possible wrong. It is the possibility of the intervention of the public that forms the very basis of the strike of the workers in order to obtain better terms from an employer who is really a heartless fellow, bent upon drawing the last drop of blood from the employee. Labour counts upon the intervention of the public, and in fact the whole theory and practice of strikes depends upon that calculation. If you take away that factor by saying that no strike should take place, or that it should take place only after a certain period of notice has lapsed and similar other impossible conditions are fulfilled, then virtually you are expressing yourself entirely against the idea of strikes in the case of certain utility services. Now, there is a body of people in a public utility service which has gone on strike. The inconvenience is there. I maintain that the greater the inconvenience to the general public, the greater the chance of the general public bringing speedy pressure to bear upon the employers to investigate the grievances of these people whose strike has caused them a good deal of inconvenience. Thus

there comes into existence a mass of public opinion which automatically is awakened to the necessities and requirements of labour that has gone on strike. That is the psychology underlying the whole theory and practice of strikes. General inconvenience to the public is not a matter that should, in my opinion, enure to the benefit of the employers, as the present provision in the Bill undoubtedly does, but to the benefit of the labourers.

Sir, the title of this Bill is to make provision for the investigation and settlement of trade disputes. I can understand that. Then it is said "and certain other reasons". I was trying to understand what these "certain other reasons" were. As I find that clauses 15, 16 and 17 of the Bill do not fit in with the previous provisions dealing with the questions of disputes, investigation and so on, I conclude that these "certain other reasons" are no other than those of a nature that are primarily in the interest of the employers and not of the employees. This is a Bill providing partly for the settlement of disputes between the employer and employed and partly for providing means which shall be exclusively for the benefit of the employer. This Bill is not intended to give any rights to the labourers save some makeshift machinery to provide for some petty disputes, but, at the same time, to create solid and serious obstacles in the further healthy development of the trade union movement in this country.

Sir, there is one more point. I think the Honourable Member knows the well known dictum which has the sanction of His Majesty the King himself—that is "the difficulties of England are the opportunities of India". That was a very remarkable pronouncement made by our Sovereign during the war days. I say, Sir, on the analogy of the Royal observation that the difficulties of the employers are the opportunities of the employed. After all the public also is interested in the proper working of the public utility services. They are the persons who ultimately pay for these workers. Now, the difficulties of the employers are the opportunities of the workers and I think, Sir, that no piece of legislation which virtually and in effect takes away the right of workers taking recourse to the only means at their disposal to assert their rights can be considered to be a legitimate or honest measure.

There is one more point to which I wish to make a reference. There are certain government departments also which are concerned in this. Now, we have heard references to contracts or rather violation of the contract to justify the clause. I do not know whether, in the case of Government servants, there is such a thing as a contract between the State and the employees at all. The Government has the absolute right of making rules to regulate the conditions of service. They have the supreme right of altering those conditions of service every day if they like, and the other party is absolutely helpless. In such a case it would be preposterous to say that there is any contract between the employers and the employed. In the case of railway servants also, inasmuch as they are

1 P.M. public servants, governed by the departmental rules made by the Railway Department for the time being, they are governed by these rules and there could not be any contract at all between those servants and their employers. If, however, it is seriously urged that the relation is one of contract, then, whenever the Government thinks of making any change and alterations in the conditions of service which are

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likely to affect the welfare and prosperity of the members of their service, it ought to take their opinion, and without their consent no change should be made. Is that the position in the case of the Government servants? They are not governed by any regular contract at all. If that is the position, what is the meaning of the words "breach of contract" in clause 15? It is obviously known to everybody that, in the case of Government servants, particularly those employed by the railways, one month's notice is sufficient to dispense with or dismiss any employee. After one month's notice, the service of any railway servant can be brought to an end and he can be asked to go home and finish his job there and in this way his fate can be sealed. That is the position. What is the period that you, in your capacity as employer, have guaranteed as service term in order to have the right to claim that the employee must give you 14 days' notice before he goes on strike. Although the Government are a party to the contract, yet they do not bind themselves by any condition whatsoever, but, on the other hand, claim to impose on the employees any conditions they like. A relationship of that nature cannot in law be termed a contract, and when there is no such thing as a contract, the words "breach of contract" appear to me to carry only a fictitious and no real sense. Therefore, a proper justification for the enforcement of the conditions laid down in clause 15 cannot exist, and the conditions ought not to apply in their case at any rate. This is another serious difficulty. In view of the fact that, as in a large number of public utility services, it is virtually the Government who are the employer, clause 15 appears to me to be arming the employer with an enormous authority under the sheer weight of which the employees will be crushed, and his so-called recognition of the right of strike will be nothing but shadowy. My friend, Mr. Fazal Ibrahim Rahimtulla, is a capitalist himself and he is interested in having more powers for the employers at the expense of labour and he therefore naturally jubilates over this. And that is one of the reasons why I say that the part of the Bill after first 14 clauses is conceived not in the interests of the employees, but in the exclusive interests of the employers. It is for this reason that we have been contending, from the very beginning, that clauses 15 to 18 do not fit in with the real spirit of the Bill, and in fairness to this side of the House my Honourable friend, Sir Bhupendra Nath Mitra, should have given the Members of this House another opportunity of considering these clauses altogether independently, and in a state of detachment from the other part of this Bill. Whatever little good there is, is also mixed up with this full dose of poison, which is bound to paralyse the spirit and inhibit the growth of trade unionism in this country. For these reasons, I feel that we have no option but to support the motion of my friend, Mr. Chaman Lall.

**Mr. V. V. Jogiah** (Ganjaan cum Vizagapatam: Non-Muhammadan Rural): Sir, I am one of those who gave notice of a motion to delete clause 15. I believe that the right to strike is one of the inherent rights of every workman. If I remember aright, when an inquiry was asked for, on the floor of this House, into the grievances of the railway employees, in the year 1925, Sir Charles Innes, the then Member of the Railways, said that the conditions of labour did not call for any inquiry. His chief reason, for saying it, was that there were no strikes on the railways. This shows that the Honourable

Member recognised strikes as a legitimate weapon for workmen in cases where workmen are dissatisfied with their conditions of service. I say, Sir, that the strike is the only weapon, which a workman has, to bring to his employer's notice, his dissatisfaction and discontent with the service. It is only when workmen strike, and threaten loss to employers, that the employers realise the workmen's woes and not till then. A strike therefore is the only inalienable right which a workman possesses when his rights are interfered with. Yesterday, the Honourable Mover of the motion, in answer to claims made that a strike is the elementary right of a citizen, asked how this right was derived, and what was the sanction behind it. When he said this, he probably forgot that every subject has the right to do what he thinks right, in his own interests and the person, who alleges the contrary, has to prove that he has no such right. It may be said that this clause does not deny a workman his right to strike, but it only postpones the same by a fortnight. To postpone this right, in this case, means, I submit, the denial of the right itself. What is the object of a strike? A strike is undertaken, not for the mere pleasure of it, nor with a malicious intent, to tease the employer, but because the workman is driven to it, for want of sufficient means, to keep his body and soul together, or because he is rudely insulted, or badly and cruelly treated. He believes, Sir, that, by this means, he can make his employer feel the intensity of his suffering. To postpone the strike, by giving departmental notice, means that the employer is afforded means not to feel the effect of the strike. This is, practically, to nullify the very object of the strike, for, within a fortnight, the employer would get other men to do his work.

One chief argument advanced in favour of strikes is that, in most countries of the world, strikes are made punishable. Countries, chiefly instanced in this connection, are England and Canada. While introducing the Bill, the Honourable Mr. McWatters, in September last, stated that this Bill was based, chiefly, on the English Act. This is not wholly correct. It is true that most of the provisions, affecting labour adversely, were incorporated from the English Act, but the provisions which were beneficial to workmen were left out. For instance, the English Act did not give power to Government to declare any Railway service to be a public utility service by notification in the *Gazette*, as is done by means of this Bill. This shows there is nothing to prevent Government from penalising even clerks in Railway Accounts offices for declaring strikes without notice, because the Governor General may declare that their offices are public utility services. This shows that the provisions of the Bill are far wider, in the matter of strikes than those in the English Act.

Again, Sir, the English Act penalises workers, who cease to work, only if they do so with a malicious intent, and with a knowledge that it would work hardship on the community. In this Bill, Sir, neither the intent nor the knowledge on the part of the worker need be proved. No such provision is made in the Bill. In England, Canada, and in fact in most of the countries of the world where labour unions exist, responsibilities are imposed on the employer, before he can successfully ask the workmen to be penalised for cessation of work. For instance, if the employer does not provide, where he is bound to give, food and other necessities for the workers' health, section 6 of the Conspiracy and Protection of Property Act penalises the employer.

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The Honourable Sir Bhupendra Nath Mitra told us yesterday that this Bill is not copied merely from the English Act, but the provisions of the Canadian Act were also considered.

**The Honourable Sir Bhupendra Nath Mitra:** Did I say so yesterday?

**Mr. V. V. Jogiah:** That is what I remember, Sir, it was said that it was based on the English Act.

**The Honourable Sir Bhupendra Nath Mitra:** All I said was that the provisions were not blindly copied from the English legislation.

**Mr. V. V. Jogiah:** So that even on his own admission he said that these provisions were not copied merely from the English Act but the Canadian Act was also consulted in the matter (Laughter).

It is true that this was done, but even here the same mischievous procedure of omitting provisions beneficial to the workman are left out.

Let us take the Canadian Act of 1907. No doubt it makes strikes illegal, without notice, or until inquiry is made. Neither the English Act nor the Canadian Act nor the several Acts in which strikes are made illegal, are certainly one-sided as this is, but they are more fair. Many of the countries sought by legislation to postpone strikes. It must be remembered, Sir, in the case of every country, which postponed strikes, the Government bound itself to make an immediate inquiry when an application was made that a strike or dispute was threatened. This gave immense advantage to the workmen. In India also, since Government want to make strikes punishable, let the Government introduce into this Bill a provision whereby they would guarantee an inquiry into the grievances of the workmen, if a strike or dispute is threatened. But that is not to be found in the Act.

Again, Sir, the Canadian Act and other Acts prevent an employer from reducing wages or making changes in the conditions of service, such as hours of work, without notice. The Government here propose, as I have already submitted, the disabilities imposed by the Acts of other countries without giving the Indian workmen the advantages enjoyed by the workmen in other countries. Even, in cases where responsible conventions, like those held at Geneva and Washington, imposed better conditions as to the hours of work and in the matter of rest on all the administrations, including this country, Government, while accepting these recommendations, about 8 or 9 years ago, have not given effect to these conventions up to now. It is no exaggeration to state that, in other countries, the average service conditions in the matter of wages, housing, security of service are, compared with those in this country, almost ideal.

Again, Sir, in all countries, where strikes were made illegal, as a protection to workmen, Councils, after the Whitley Council, wage boards, unemployment bureaus, and innumerable other benefits and facilities are provided. Before making strikes illegal, it is, I submit, necessary for Government to do all this, and then introduce penal provisions punishing strikes.

With all the innumerable advantages, which are given to English workmen, those who read the proceedings of the House of Commons during the passage of the British Trade Disputes Bill, through the House, will

see that the Bill had to be passed in the teeth of the united Labour opposition, with the threat that the Act would be repealed no sooner Labour came into power. This shows, Sir, that it is unwise to enact clause 15 and introduce it into a country, in which wide illiteracy on the part of Labour prevails, and where Labour is still in its infancy.

The origin of this Bill, Sir, is to be traced to the general strike, which came off in England in the year 1919, and to the panic created among some of the capitalists in Bombay on account of a series of strikes, which occurred in that part of the country only last year. There is, I may assert, absolutely no chance of a general strike, such as that in England occurring in India. The remedy for strikes such as those occurring in Bombay and elsewhere, is to insist on the improvement of labour conditions in this country, and place them on a par with those of other countries, and then, if necessary, think of making strikes penal offence, and not until then. With these words, I strongly recommend to the House to delete clause 15.

**Sir Darcy Lindsay** (Bengal: European): It is a little difficult to understand the strong opposition on the part of the House to this clause, which deals with utility services. I have listened, with some amazement, to the expressions used by my Honourable friend, Mr. Aney, as to the terrible cruelty that this clause proposes to inflict on the workmen. It seems to be quite overlooked that we have had such a condition for many years past in a very prominent public utility service, that is the post office. I do not remember any particular objection being raised against the penal clause in the Post Office Act, and I do not know, Sir, that it has been proved to inflict any very great hardship on the men. Then, again, Sir, my Honourable friend, Mr. Jamnadas Mehta from Bombay, was particularly strong in his condemnation the other day of the public utility services being penalised, except so far as, I think, regards light, which he made a very strong point of, and water as necessities of life. But he forgot to tell us, Sir, that he as a Member of the Bombay Municipality which inflicts penalties on the conservancy workers in Bombay and more severe penalties than this particular clause in the Bill proposes to impose. The Select Committee very carefully considered this clause, and I maintain, Sir, that in the modifications that they have made, they have generously met the opposition from the other side of the House to this particular clause. On this ground, I, for one, strongly oppose my Honourable friend in his amendment to reject clause 15.

**Mr. Ram Narayan Singh** (Chota Nagpur Division: Non-Muhammadan): I too had given notice of an amendment of a similar nature. Instead of moving that I support the amendment of my Honourable friend Diwan Chaman Lall. Sir, up to clause 14, the Bill refers to trade disputes, and after that, I mean clause 15 and the subsequent clauses refer to public utility services. So far as we know when any measure is brought before the House for enactment, all the clauses contained therein are brought with one particular object and deal with one particular thing. Here I do not understand how public utility services are included in the subject of trade disputes. I am of opinion that this clause does not fit in with the Bill. If the name of the Bill has been changed in some other way, if the Government should call the Bill "Slavery Revival Bill", of course this clause would fit in. But so long as it is the Trade Disputes Bill, this clause does not fit in at all. It is a fact that the Government is the biggest employer in this land, but the Government is not an employer in the sense in which the manufacturers

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or merchants or traders are employers. Sir Darcy Lindsay has made much of the modifications and alterations. Of course a lock-out clause has been inserted and an abetment clause too has been omitted. I tell you, Sir, how things occur. My Honourable friends on the opposite Benches are very expert draftsmen. They settle what they have got to do. They definitely determine what they want the House to carry. Having done that, they deliberately make some glaring omissions and unnecessary additions. These they do with this object, that when the Bill goes before the Select Committee and when these omissions or additions will be pointed out to them, the Members of the Government will assume a very grave appearance and pretend to think for some time, and then they say, "All right we accept the suggestions". In this way, Sir, some of the Honourable Members, like my Honourable friend Sir Darcy Lindsay, will be puffed up with the idea that their suggestions have been respected and accepted. Therefore, in this way, they are duped to follow the Government and do what they wanted them to do. If you take the clause as it is as regards the abetment clause there is such a thing in the Indian Penal Code. As regards the lock-out clause, of course this was a glaring omission. There are two parties to be affected by the Bill when you make a strike illegal. It is necessary for you, if at least you should pretend to be just, that the lock-out should be made illegal. So there is nothing essential as regards omissions and additions. Sir, everybody knows, and the world has recognised, that strikes are the inherent right of all people and of the workers in particular. This is a manifestation of a deep sense of wrong. Strikes are resorted to to deliver the strikers from suffering and misery. During the period of strike, the strikers suffer more than the employers. They suffer all these hardships simply to get their grievances redressed. Some of my Honourable friends said that labourers are exploited by the Congress people for political purposes and for political reasons. I ask, "is it not for political reasons that the Government have put in this clause?" Is it not a clause meant to be incorporated in this Bill for political purposes? Just now, Sir Darcy Lindsay said that Mr. Jamnadas Mehta made a very strong speech, and only the other day Sir Hugh Cocke said that Mr. Jamnadas Mehta's speech was very wild. I say, Sir, Mr. Jamnadas Mehta spoke fervently, simply because he felt for the suffering masses of this country.

**Mr. Jamnadas M. Mehta:** Hear, hear. (Laughter.)

**Mr. Ram Narayan Singh:** Anybody who feels otherwise and speaks in support of measures intended to work against the interest of the people in suffering must be said to be making barbarous speeches or inhuman speeches.

Well, Sir, the Government have laid stress on this that there is such a measure or such an enactment in England, Australia and other countries. When something is said on this side of the House to the effect that there are such things in other countries, and that those things ought to be here in India, the Government at once comes forward and says that East is not West and India is not England. But if the Government want to do something, they will at once quote the instances of other countries and say these things have been enacted in those countries and so India should learn a lesson from them and incorporate those Acts in the statutes of India.

**Mr. President:** So, what is to be done?

**Mr. Ram Narayan Singh:** I say, Sir, this is simply a pretext. This is not really a matter for the benefit of the people. I think those people who are convinced by such arguments are only duped.

Of course there are people in this House who must support the Government in every case—it matters little to them whether the Government is right or wrong. And my Honourable friend, Mr. Fazal Ibrahim Rahimtulla, will say: "Well, if you realise my position and responsibility, you won't ask me to vote against the Government". Well, Sir, his attitude reminds me of a saying which is current in the mofussil. It runs thus: "*Poonchha, na tanchha main dulaha ki chachchi*". It means: "Whether anybody cares for me or not, I am the aunt of the bridegroom". Similarly, my Honourable friend says: "Whether Government care for my support and co-operation or not, I will support the Government", and at the same time he will come and talk big in this House. Sir, I say that this clause has been introduced in this Bill for political purposes, and I say it is the duty of every Member of this House—and I say it is the duty of every man who thinks that he is a man—to support the amendment moved by my friend Diwan Chaman Lall.

The Assembly then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock, Mr. President in the Chair.

**Pandit Thakur Das Bhargava:** Sir, the first thing I wish to point out in connection with clause 15 is that the law which is sought to be passed in this House is not the same as the one which we find in the country wherefrom it is copied. In all penal laws, which provide for imprisonment or fine, the one feature that one would find is that it must have reference to *mens rea*. Unless and until a particular intention or knowledge is imputed to a particular person, he cannot be deprived of his liberty or his property. Now, this is a principle to which there may be certain exceptions, but certainly, in the analogous provisions existing in England, there is no such exception. I will just quote to you, Sir, from the English law on the subject. I am quoting from section 6 of the Act to declare and amend the law relating to trade disputes and trade unions, passed in 1927. The analogous provision runs thus:

"If any person employed by a local or other public authority wilfully breaks a contract of service with that authority, knowing or having reasonable cause to believe that the probable consequences of his so doing either alone or in combination with others, will be to cause injury or danger or great inconvenience to the community, he shall be liable, on summary conviction, to a fine not exceeding £10, or to imprisonment for a term not exceeding three months."

Now, Sir, a perusal of these provisions will establish the fact that a person against whom these penal provisions are put in force must have a particular knowledge, and that knowledge is that his withdrawal of service would result in injury or danger or grave inconvenience to the community. Moreover, Sir, there is one other condition which must be satisfied before the penal provisions can be attracted, and that is that he must

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break a contract of service. Now, Sir, in the provisions of the present clause 15, we find that the knowledge or intention is absolutely wanting. No knowledge or intention need be proved. As regards the breaking of the contract, the words simply are, "goes on strike in breach of contract". Now, Sir, these words do not sufficiently indicate the intention of those who are responsible for this clause. Breach of contract in respect of what? It may mean a breach of contract in respect of time; it may mean breach of contract in respect of other conditions of service. It does not necessarily mean that the breach of contract must be in reference to time alone . . .

**Mr. K. Ahmed:** All the conditions of service, time, etc., will be there in the recital of agreement itself.

**Pandit Thakur Das Bhargava:** If the interpretation sought to be put by Mr. K. Ahmed is right, Sir, then I claim that clause 15 does not express the intention of the framers of that clause. That is exactly my point. I am very glad that at least once Mr. K. Ahmed has understood the speaker rightly. (Laughter.) Sir, I will illustrate my point. Suppose the contract of service was that a particular employee was to serve for eight hours a day; and it so happened that the employer wanted him to work for more than eight hours—say for ten hours; and the employee did not choose to accept those terms but struck work. What would happen? Would he not be guilty under clause 15? That is the question I want to put. My submission is that, under clause 15, as it appears here in this Bill, that man would be guilty, irrespective of the fact that the reasons which led him to strike were perfectly justifiable. No Court would be called upon to determine whether the act of the man, who struck work, was justifiable or not. Now, Sir, if the sole purpose of enacting clause 15 is to clothe the breach of civil contract with certain penal consequences, my humble submission is that, even then, the incidents of contract must be determined with reference to the conditions of the civil contract. I will refer you to section 51 of the Contract Act, which runs thus:

"When a contract consists of reciprocal promises to be simultaneously performed, no promisor need perform his promise unless the promisee is ready and willing to perform his reciprocal promise."

Similarly, Sir, I would refer you to the provisions of section 67 of the Contract Act which runs as follows:

"If any promisee neglects or refuses to afford the promisor reasonable facilities for the performance of his promise, the promisor is excused by such neglect or refusal as to any non-performance caused thereby."

It would follow that ordinarily such defences would be open to any person who was arraigned before a Court of Law as accused and he could be further heard to say that the contract itself was not binding upon him and therefore he was justified in breaking the contract. But to the unfortunate man against whom a charge is made under clause 15, these defences will not be open; and I want to know what justification there is for depriving a man so situate of the benefits of the ordinary incidents of civil contract. Now, Sir, when you compare the provisions of the English law with those existing in the Indian law, you will find that, even before the last amendment of 1927, the English law and the Indian law were

based on similar principles. Under section 5 of the Act of 1875 (Conspiracy and Protection of Property Act), a person breaking his contract was held to be guilty, provided his so doing (which in law could be said to be a breach of the conditions of the contract), resulted in death or serious injury or loss of property. Those provisions of the English law also found a place in section 491 of the Indian Penal Code, and there also the House will find the safeguards of intention or knowledge and the lawfulness of the contract are provided for. The first sentence read thus: "Whoever being bound by a lawful contract to supply the wants of any person", etc., etc., so that both these incidents, that is the lawfulness of the contract and a certain intention or knowledge, have never been absent from any of the provisions so far either in the English or Indian law. This is the first piece of law in which these defences, which should be open to every accused, are not open to the prospective accused under clause 15, and the law is being so framed that the employee will be in the hollow of the hand of the employer and will never be able to elude the evertightening grasp of his fingers. He shall have to cultivate that mental servile attitude in which nothing but implicit obedience shall determine his conduct. Now, in an ordinary contract those things which invalidate a contract can be pleaded, whereas if a person struck work and he pleaded that the original contract was not valid, he would not be allowed to say so. From this it follows that the provisions contained in clause 15 are very drastic in their nature.

I am submitting all this only from a legal point of view. If we consider the conditions prevailing in India, if we consider the fact that, whenever this provision has to be used in India, it will be used by the Government or the capitalists, we find that the enormity of the evil is really too great. It has been just said that, in the Select Committee, these provisions have been very generously treated, and some innovations have been made which were meant to satisfy some Honourable Members. And Sir Darcy Lindsay has just submitted that he is satisfied with those provisions. If the Honourable Members will kindly see the amendments made in this clause, they will find that these amendments are absolutely illusory. The main amendment is that a lock-out in any public utility service has been made penal. Now, Sir, may I ask Honourable Members of this House if they have ever heard of a lock-out in any public utility service? Can it be contemplated that a lock-out in any public utility service will ever take place? And yet those who are theoretically responsible for these lock-outs will be the very persons whose sanction for the prosecution of the employer, who is legally responsible for such lock-outs, will be needed. Who will be responsible? If Honourable Members will kindly see the definition of the word "employer" in this Bill, they will find that he will be the head of a department in a case in which Government are the employers. If so, may I know who will be the person who will grant the sanction? So that practically speaking the main amendment made is in the nature of a make-believe, and it is so threadbare, that it will not deceive anybody.

As regards the other alterations, Sir, there is one relating to the words "any breach of contract" to which I just drew the attention of the House. Some people have interpreted these words to convey the result that clause 15 of the Bill will only affect persons who are not daily wage-earners, but I submit this will not be a proper construction. It may refer to the daily wage-earner also, because it is not necessary that the breach of contract

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must relate to time and to a duration of more than twenty-four hours. Therefore, I submit, Sir, that the amendments made after the Bill has been sent to the Select Committee do not make any substantial difference, so far as the principles involved in this clause are concerned. Here in India, where the condition of the labourer is really a very helpless one, and the employer is too strong, politically as well as financially, any the least concession made in favour of the employer and any the least disability imposed upon the labourer has to be strictly justified. I can understand that, in a country where the Government is responsible to the people, and there is a strong organised labour party, provisions like these may not work hardship to any labourer or workman, but here in this country the employer is the authority which will initiate prosecutions; the employer is the authority which may or may not hear or attend to any public complaint, and we know from our experience that the Government does not care for public opinion in this country. In these circumstances, Sir, this provision, which in a well ordered state may be justifiable in regard to public utility services, is certainly not justifiable in this country.

Sir, while considering these provisions, I am somewhat astonished to find that my friend, Colonel Gidney, takes shelter under a pretence which cannot hold water. He is opposed to the provisions of this Bill, but still he says that he is afraid of communism and therefore he will not come into the lobby with us . . . . .

**Lieut.-Colonel H. A. J. Gidney:** I am sure I did not use the word "oppose".

**Pandit Thakur Das Bhargava:** That is how I understood you.

Again, Sir, I have to thank Mr. Chalmers for the illustration that he gave in this House. I appreciate his kind-heartedness for those starving millions of whom he spoke in his speech. He very kindly read out to us a cutting from some newspaper which very feebly depicts the state of things existing in this country. Any person who cares to see what is happening in this country has only to go to the district from which I and the Honourable Mr. Abdul Aziz hail, and it will be found that, in this district today, a very severe famine is raging. May I know if Mr. Chalmers can quote any illustration in which workmen employed in any public utility services have ever struck work with the object of putting a famine-stricken area in difficulty?

**Mr. T. A. Chalmers:** I do not think they ever would.

**Pandit Thakur Das Bhargava:** I can assure him that if the employees only knew that such was the result of the strike they would be the last persons to strike work. A workman has got sympathy with a workman because he knows his difficulties, because he has himself passed through those difficulties. It is the rich people, it is those who do not know what starvation is, who cannot appreciate the difficulties of the poor. This Government cannot feel those difficulties, and if it had really felt their difficulties, provision like this would not have been introduced in clause 15. Sir, I could understand these provisions if the condition of the labourers

in the public utility services was satisfactory. As has been just 3 P.M. pointed out, those provisions which exist in England and other countries regarding fixation of minimum wages, unemployment insurance, old age pensions and the like are all conspicuous by their absence in India.

What have you done to compensate the employees in this land for the right which you are taking away from them? Unless and until you can show that you are compensating them, by way of betterment of their conditions, you cannot take away from them the right which is theirs, on the unfounded plea that they will exercise such right to the detriment of the community at large. In fact, these provisions are in a way academic. I consider them to be more of an academic than practical nature. I can confidently predict, and I hope official Members will agree with me, that in any measurable distance of time, there is no likelihood of any general strike, and at the same time, if Government agree to insert, in clause 15, a provision like this that the persons employed in a public utility service will not be held guilty of any offence unless and until knowledge is brought home to them that, by their so doing, they will bring hardship on the community, the contingency will never arise when any set of workmen will behave in such a manner as will cause hardship to the community at large . . . . .

**Mian Mohammad Shah Nawaz:** You will do away with notice?

**Pandit Thakur Das Bhargava:** I am asked a particular question whether I will agree to provisions like this which say that a notice of fourteen days is necessary. Apart from the question whether these provisions should be on the Statute-book of our country or not, I do not hesitate to say that, in public utility services, such provisions are justifiable ("Hear, hear"). But the point at issue is whether, in the particular conditions of India, in the condition in which this law is placed before us for acceptance in the absence of all the other provisions and safeguards which are to be found in most other countries, this clause 15 is acceptable. May I put, in reply, a question to Mr. Shah Nawaz? Could he say with his hand on his heart that he is justified in accepting clause 15 in the absence of provisions which appear in the English law on the subject?

**Mr. President:** This is not question time.

**Pandit Thakur Das Bhargava:** Sir, I oppose this clause.

**The Honourable Sir Bhupendra Nath Mitra:** Sir, I submit that most of the arguments which have been adduced by my Honourable friends on the opposite side in support of the amendment moved by my friend Diwan Chaman Lall, are misconceived, for he has succeeded, adept as he is in that art, in producing a barrage of smoke before the eyes of his friends whom he has persuaded to support the amendment. I may, in passing, also observe that the facts, with which he tried to dazzle this House, are mostly in the nature of fictions. My Honourable friend, Mr. Cosgrave, has rather dispelled one of those fictions. Another alleged fact produced by my friend Mr. Chaman Lall, was that the penal provisions in the municipal laws, wherever they exist, have never been utilised. I have before me documentary evidence showing that, during the year 1928, these penal provisions were used, and successfully used, in two cases. I think in Select Committee Mr. Jamnadas Mehta repudiated . . . . .

(At this stage Diwan Chaman Lall rose to interrupt the Honourable Member.)

**Mr. President:** The Honourable Member is not willing to give way.

**The Honourable Sir Bhupendra Nath Mitra:** . . . repudiated the suggestion that the provisions of the Bombay Act had not similarly been used in one case.

(Diwan Chaman Lall again rose to interrupt the Honourable Member.)

My Honourable friend has had his innings. I never interrupted him when he spoke, and I hope he will hear me without interrupting me. Now let me proceed. I think it was yesterday that I put the question; what is this so-called right to strike, and how does it originate? I quoted from publications of the International Labour Office sufficient facts to prove that the right is not there. The right which exists undoubtedly is the right to cease work; that is inherent in the right to work. But the right to strike and the right to cease work are not the same. Though the word "strike" has been loosely used in the course of this morning's speeches to mean cessation of work, it means quite a different thing. The definition is given in clause 2 (i) of the Bill itself.

" 'Strike' means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment."

That, Sir, is the meaning of the word "strike", and as I said yesterday, the right to strike is not an inherent right. The right to strike is undoubtedly conceded by the community in various countries, but in conceding the right, the community also provides safeguards to protect itself against serious inconveniences arising to it out of the exercise of this conceded right.

As I said yesterday, strikes of public officials are practically prohibited in all the countries of the world. The individuals serving in public utility services with which we are concerned in clause 15 are in India mostly, I should say 90 per cent. or more of them, public officials. As I have stated, in most other countries of the world the right to strike is absolutely denied to them. It is not a fact that, in all those countries, the various advantages to which reference was made by some of my friends on the other side are existing at the present day. As a matter of fact in all countries, public officials are in a much better position than the workman or labourer at large. Now, Sir, as I said yesterday, the reason why in most countries the right to strike is denied to public officials and is restricted in the case of workers in public utility services is somewhat as follows. The workers in these industries are in a particularly strong strategic position by reason of the essential services which they perform, and it is therefore held that there is no injustice in curtailing, to some extent, their right to strike. In dealing with this question, Sir, I am more concerned with the practical and economic aspects of the problem than with the psychological, philosophic or political aspect which my Honourable friend, Mr. Srinivasa Iyengar, was led into by the historic speech of my friend, Diwan Chaman Lall.

Now, Sir, I have already urged that this limitation on the right to strike will operate also to the best benefit of the workman himself. The only way in which the workman, under present conditions, can secure an improvement in his conditions relating to wages, hours of work, etc., is by securing the goodwill of the community and the best means by which he can secure this object is by putting him on his good behaviour towards

the community. My friend, Mr. Munshi, whom I do not find in the House at the present moment, asked me a specific question. He said, "Now suppose that a workman in a public utility service gives 14 days' notice of his intention to strike under clause 15 (1) of the Bill, and suppose that the employer forthwith serves him with a 14 days' notice of lock-out, and at the end he gets rid of the workman. The result is that the workman loses his employment. Therefore the effect of the provision is not to stop lightning strikes but to stop strikes altogether". Sir, with all deference to my Honourable friend from Burma, I am not sure that I was able to follow the trend of his argument. Supposing that workmen gave no notice that he was going on strike, but did go out on strike, and his employer therefore dismissed him, how is the position in any way worsened by the fact that he gave this 14 days' notice?

**Mr. Jehangir K. Munshi:** It gives the employer 14 days to replace him.

**The Honourable Sir Bhupendra Nath Mitra:** In connection with that it was urged by my friend Mr. Srinivasa Iyengar and others that it would be difficult to replace these men on railways so quickly, as they are mostly technical men. I think it was Mr. Srinivasa Iyengar who said that the only people who could be replaced quickly were the scavengers. Therefore the question of replacement is not so pertinent but the question which is more pertinent is this. Take the case of a railway. If an employee, or a body of employees, gave 14 days' notice and declared their intention of going on strike at the end of the 14 days, and the employer of that railway took no action within the 14 days to inquire into the grievances of the men, and as a result, a strike took place with considerable inconvenience to the community, then the community would certainly not let the matter rest there. They would take steps to ascertain why, during this period of 14 days, no action was taken to arrive at some settlement of the reasonable grievances of the workmen.

**An Honourable Member:** What action can be taken?

**The Honourable Sir Bhupendra Nath Mitra:** It may be in various directions. In any case the grievances will be examined. If the workman said, "I give 14 days' notice of my intention to strike because I suffer from these grievances", obviously it would be the duty of that particular employer, in view of his obligation to the community at large, not to go to sleep over that state of affairs.

The question has also been asked what would be gained by placing this enactment on the Statute-book because it will be never used. I have already brought to the notice of the House that similar provisions exist in the municipal law of various provinces, and they have been used as the necessities of the occasion demanded. Moreover, penal provisions of the kind incorporated in this clause will have a deterrent effect. No intelligent person—and some of these workmen in public utility services possess a considerable amount of intelligence—would care to break the law of the land deliberately, and therefore that provision is sure to have a deterrent effect. Moreover, as my friend Diwan Chaman Lal admitted, even if it is not considered desirable to prosecute the workman himself, who has actually broken the law, it will be possible, and with the best of effects, to prosecute the person who has incited that unfortunate workman to that particular course of action and thereby caused misery to him

[Sir Bhupendra Nath Mitra.]

and serious inconvenience to the community at large. Sir, I regret that I cannot agree to the amendment moved by my friend Diwan Chaman Lall.

**Mr. President:** The question is:

"That clause 15 of the Bill be omitted."

The Assembly divided:

AYES—38.

Abdul Matin Chaudhury, Maulvi.  
Aney, Mr. M. S.  
Ayyangar, Mr. K. V. Rangaswami.  
Bhargava, Pandit Thakur Das.  
Chaman Lall, Diwan.  
Das, Pandit Nilakantha.  
Dutt, Mr. Amar Nath.  
Dutta, Mr. Srish Chandra.  
Farookhi, Mr. Abdul Latif Sahab.  
Gulab Singh, Sardar.  
Hans Raj, Lala.  
Iswar Saran, Munshi.  
Iyengar, Mr. A. Rangaswami.  
Iyengar, Mr. S. Srinivasa.  
Jogiah, Mr. V. V.  
Kartar Singh, Sardar.  
Kelkar, Mr. N. C.  
Kidwai, Mr. Rafi Ahmad.  
Lahiri Chaudhury, Mr. D. K.  
Mehta, Mr. Jamnadas M.

Misra, Mr. Dwarka Prasad.  
Mitra, Mr. S. C.  
Moonje, Dr. B. S.  
Mukhtar Singh, Mr.  
Munshi, Mr. Jehangir K.  
Murtuza, Sahab Bahadur, Maulvi  
Sayyid.  
Naidu, Mr. B. P.  
Neogy, Mr. K. C.  
Ranga Iyer, Mr. C. S.  
Roy, Mr. B. C.  
Sarda, Rai Sahib Harbilas.  
Sarfaraz Hussain Khan, Khan  
Bahadur.  
Singh, Mr. Gaya Prasad.  
Singh, Mr. Ram Narayan.  
Sinha, Kumar Ganganand.  
Sinha, Mr. Rajivaranjan Prasad.  
Sinha, Mr. Siddheswar Prasad.  
Yusuf Imam, Mr.

NOES—55.

Abdul Aziz, Khan Bahadur Mian.  
Abdul Qaiyum, Nawab Sir Sahibzada.  
Acharya, Mr. M. K.  
Ahmed, Mr. K.  
Allison, Mr. F. W.  
Anwar-ul-Azim, Mr.  
Ashrafuddin Ahmed, Khan Bahadur  
Nawabzada Sayid.  
Bajpai, Mr. G. S.  
Bower, Mr. E. H. M.  
Bray, Sir Denys.  
Chalmers, Mr. T. A.  
Chatterjee, the Revd. J. C.  
Coatman, Mr. J.  
Cocke, Sir Hugh.  
Cosgrave, Mr. W. A.  
Crawford, Colonel J. D.  
Crerar, The Honourable Mr. J.  
Dalal, Sardar Sir Bomanji.  
French, Mr. J. C.  
Ghazanfar Ali Khan, Mr.  
Ghazanfar Ali Khan, Raja.  
Ghuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel H. A. J.  
Gour, Sir Hari Singh.  
Hira Singh, Brar, Sardar Bahadur,  
Honorary Captain.  
Hussain Shah, Sayyed.  
Hyder, Dr. L. K.  
Jawahir Singh, Sardar Bahadur  
Sardar.

Keane, Mr. M.  
Lall, Mr. S.  
Lindsay, Sir Darcy.  
Mitra, The Honourable Sir Bhupendra  
Nath.  
Mitter, The Honourable Sir Brojendra.  
Muhammad Nawaz Khan, Sardar.  
Mukharji, Rai Bahadur A. K.  
Mukherjee, Mr. S. C.  
Rahimtulla, Mr. Fazal Ibrahim.  
Rainy, The Honourable Sir George.  
Rajah, Rao Bahadur M. C.  
Rajan Bakhsh Shah, Khan Bahadur  
Makhdum Syed.  
Rao, Mr. V. Panduranga.  
Rau, Mr. H. Shankar.  
Rau, Mr. P. R.  
Roy, Mr. K. C.  
Schuster, The Honourable Sir George.  
Shah Nawaz, Mian Mohammad.  
Shillidy, Mr. J. A.  
Singh, Rai Bahadur S. N.  
Suhrawardy, Dr. A.  
Webb, Mr. M.  
Wright, Mr. W. T. M.  
Yakub, Maulvi Muhammad.  
Yamin Khan, Mr. Muhammad.  
Young, Mr. G. M.  
Zulfiqar Ali Khan, Nawab Sir.

The motion was negatived.

Clause 15 was added to the Bill.

**Mr. President:** The question is:

"That clause 16 stand part of the Bill."

**Diwan Ohaman Lall:** Sir, I beg to move the following amendment:

"That clause 16 of the Bill be omitted."

Sir, I regret to find that this matter of the Trade Disputes Bill, which affects the liberty of millions of workers in this country, is being treated on the floor of this House in a somewhat light-hearted manner. The Honourable Member in charge of this Bill will agree with me when I say that, in another country from which he has borrowed the provisions of this Bill, similar provisions have elicited tremendous opposition, have created acrimonious debates, debates that have lasted for days upon days, with the result that an open challenge was thrown out by the Labour Party in Great Britain that, once it came into power, they would see to it that this measure would be removed from the Statute Book. I regret to find that the Government of India, realising probably the weakness of the labour movement in this country, realising also that, in the opposition too, there are elements of weakness because of the vested interests, are taking this course, I repeat deliberately taking this course in a light-hearted manner. It is difficult for any man, who really knows the subject of labour in this country, to speak without exciting a certain amount of heat, because, as I said on the previous occasion, after all, in Great Britain they had the excuse that there they had 167 Members of the Labour Party, who could get up and speak in opposition to the proposition moved by the Government and speak against the Bill. Here there is not a single representative of labour, a genuine representative of labour, as such, elected to this Chamber, and it seems to be most shameful thing for the Government to have brought in this measure, which is nothing else but a class measure, meant to inflict grave hardships on the working classes, without going to the country once again and demanding the verdict of the country, without listening to the verdict that has already been given by the classes affected by the passing of this Bill.

I said that the labour movement in this country, the responsible labour movement, is unanimous in its condemnation of the proposal brought forward by the Honourable Member. We have just been dealing with one proposal, which seeks to restrict for a temporary period the right that workers have to cease their work. We are now dealing with another proposal which seeks to restrict, not for a temporary period but for all time; that is to say, if a body of workmen under these circumstances declares a strike, that strike will be considered to be an illegal strike. Let me read the clause as it stands:

(1) "A strike or a lock-out shall be illegal which—

- (a) 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
- (b) 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.

(2) It shall be illegal to commence or continue, or to apply any sums in direct furtherance or support of any such illegal strike or lock-out.

[Diwan Chaman Lall.]

(3) For the purpose of this section—

(a) a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour of persons in that trade or industry;

(b) without prejudice to the generality of the expression 'trade or industry', workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers.

(4) A strike or a lock-out shall not be deemed to be calculated to compel the Government unless such compulsion might reasonably be expected as a consequence thereof."

Now, Sir, the whole basis of this clause is, first to make illegal general strikes, second, to make illegal sympathetic strikes, and the clause is so worded that it will exercise the ingenuity of, not one Law Member but of a whole panel of Law Members, to find out exactly what the terms in these clauses mean. What is meant by "general and prolonged and severe hardship"? What is meant by "compelling the Government to take or abstain from taking action"? There was once a very famous judge, who said that the devil himself does not know the mind of man, and I wonder how many of us would know the mind of Government. (Laughter.) How is anybody to know the mind of Government? It is presumed that we have committed an offence if we compel the Government to take, or abstain from taking, any particular course of action. Further, no funds in the direct furtherance of any such strike are to be employed, and if they are employed, then there are further clauses which will come into action.

Now Sir, why is it that the Honourable Member has taken upon himself, towards the close of his career as Member in charge of the Department, why has he taken upon himself the task of leaving behind him repressive legislation of this nature, which even in a country like Great Britain, where the labour movement is very well organised, has been condemned mercilessly as a weapon to be used by one class against another? I don't know if the Honourable Member has ever had the opportunity of reading the long debates which went on in the House of Commons in regard to this subject. He would have discovered, if he had read the debates, that this charge was levelled, time and again, that this is a weapon which is being placed in the hands of employers in order to inflict injury upon the working classes. We heard a little while ago from the Honourable Member that there is a difference between the right to strike and the right to cease work. Well I think it was Colonel Gidney who interrupted the Honourable Member, which interruption I do not think the Honourable Member heard, when he said with regard to the right to strike, "Does it involve or does it not involve a cessation of work"? If it does involve a cessation of work, if the strike does take place, where is the difference, the distinction? We are merely splitting hairs over a problem which the Honourable Member ought to be aware is a very simple one, considering that he himself has defined the word "strike". Here is the definition of a strike:

"'Strike' means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue work or to accept employment."

There is no ambiguity about this. Suppose two men combine together, and they say we shall cease work. That is a strike. I challenge the Honourable Member or anybody to deny that, according to the definition he has laid down, if two people combine and agree to cease work, that that would not be considered to be a strike. That certainly would be considered to be a strike. Any cessation of work, provided there is concerted action, is a strike. A strike does mean a cessation of work, and a strike ordinarily imports an element of combination, otherwise there would be no strike. If I give notice and say, I am going to stop work and go home, that would not be a strike in ordinary parlance, but a strike means nothing else but concerted action taken by two or more people to stop work when they so desire to stop work. The Honourable Member said that they had no right to strike in certain industries, and that it was recognised that the right to strike had been taken away from them. What is the Honourable Member doing here? He is not taking away the right to strike from workers in certain industries only. That is a matter which was considered in clause 15. What he is attempting to do now is that if "A", a body of workers, go on strike, then, "B" another body of workers who choose to help them in that strike, shall not be allowed to go on strike. If they do, then the penal clause comes into force. Has a proposition like this ever been considered seriously by the Government? I say deliberately that this proposition has not been seriously considered in this country. What does it mean? I am going to ask the Honourable Member to remember that it amounts to this, that he is forgetting the scope of modern industry as it exists at the present day. The facts which the Honourable Member has in mind might have been relevant in an age about 150 years ago, but they are not relevant today. There is no distinction at all now. Take the transport industry for instance. Where is the industry going to cease? Suppose the *Katara wallahs*, that is those who drive bullock carts, in Bombay, want to declare a strike. Suppose they want to stop work, and suppose they want to go on strike, and suppose the dockers from whom they get their produce which they cart away to the mills also want to assist the *Katara wallahs* in their strike, does not the Honourable Member realise the natural and inevitable connection between the *Katara wallahs* and the dockers? Does he not realise the connection between taxi drivers and *victoria wallahs*. Suppose the *victoria wallahs* go on strike in Bombay, am I to be told that because the *victoria wallahs* go on strike, the taxi drivers should not declare a strike and if they do so, it shall be declared illegal? Suppose they both belong to the same union, namely the Transport Workers' Federation, suppose the *Katara wallahs*, the taxi drivers and the *victoria wallahs* who all belong to one group declare a strike, then, according to the phraseology employed by the Honourable Member, if the other two groups, which are bound under the decision of the executive to go on strike, do go on strike, they will be declared to be members engaged in an illegal strike.

Let us take industry by industry. Let us take the coal industry. There are various categories of workers in the coal industry. The coal industry is very much allied today to the transport industry. The transport industry is very much allied to the railway industry. These are all branches of one and the same industry, so to speak from the trade union point of view. Suppose now, the coal miners go on strike, the object with which they go on strike being that no coal should be produced. It is the natural right of every worker to cease work if he so chooses. Their object is that no coal should be produced and the natural and the inevitable result will be for them to see to it that no coal shall be carted away from the coal centre.

[Diwan Chaman Lall.]

Then they call upon the affiliated railway men's trade union and say: "You shall not handle coal". The Honourable Member immediately comes in and says that it is an illegal strike. Nevertheless it is a dispute in that particular industry, because the railway men are handling the coal the coal miners are handling the coal, the coal carriers are handling the coal, the electricians employed in the mines are handling the coal, and if all these combine and say, "We shall not produce coal, we shall not cut your coal, we shall not carry your coal, we shall not transport your coal," if they say all this, that very moment they are declared to have overstepped the limit of the ambit of their particular industry, and the other body of workers, who come out in sympathy with them, are to be declared a body of workers who are engaged in an illegal strike. Industry today is not docketed in water-tight compartments. There is a natural and inevitable connection between one industry and another, just as there is a natural and inevitable connection between workers' organisations of one kind and workers' organisations of another kind. This is but one of the defects that I would like to point out.

Let me take another set of difficulties. What will be the result of passing legislation of this kind? Has the Honourable Member considered for a moment what the result will be? I see from the notice board outside in the lobby that there are six lines about yesterday's debate sent out by Reuter or by the Associated Press; out of which there are three lines devoted to the Honourable Member, and one of the lines says that the Honourable Member appealed to the House not to be carried away by Diwan Chaman Lall's threat of a general strike on the day of the passing of this measure. I tell the Honourable Member, in all seriousness, that I did not at all mean any threat. I drew the Honourable Member's attention to a Resolution that was passed by the all-India Trade Union Congress, indicative of the tremendous sense of discontent prevailing among the working classes over the provisions of this Bill. I ask, has he considered the serious consequences involved? Does he know the history of the trade union movement in Great Britain, when similar repressive legislation in the past was resorted to by employers and the Government alike? What was the result of it? Let me just read to him a few sentences as to what happened:

"Human nature could not endure the ills to which workers were subjected under the changes effected by machinery, inventions and large scale productions. The operatives therefore formed combinations in defiance of the laws. They took the form of secret societies or were masked as friendly societies, funeral or misfortune clubs."

They had to form such societies or clubs to get outside the ambit of the law.

"Every union that can nowadays claim an existence of over a century possesses a romantic legend of its early years. The midnight meeting of patriots in the corner of a field, the buried box of records, the secret oath, the imprisonment of leading officials—all these are in the sagas of the older unions. In spite of persecution and prosecution, combinations flourished. Capitalists and politicians were alarmed at the growing working class solidarity. Capitalists dreaded loss of profits and politicians loss of power by the potency of combination among the multitude of workers. Capitalists pretended, 'We cannot make our English cloth so cheap as they do in other countries, because of the strange idleness and stubbornness of the poor'. The manufacturers 'protested that liberty of combination must make the workers the ultimate authority in industry'. They found 'that combinations of workmen would succeed in securing a great rise of wages to the detriment of profits'. The politicians were equally certain that trade union action would raise prices, and thus undermine the foreign trade, upon which the prosperity and international influence of England depended. Under the shadow of the French revolution, the English governing classes regarded all associations

of the common people with the utmost alarm. In this general terror lest insubordination should develop into rebellion were merged both the capitalists' objection to high wages, and the politicians dislike of democratic institutions."

May I tell the Honourable Member that the conditions that prevailed in Great Britain at that time could not be met by repressive legislation; on the other hand repressive legislation led to the formation of secret societies. It never killed the spirit of the working classes in Great Britain. The same is absolutely true of this country today. The Honourable Member is seeking to have power by the repressive measure that he intends to pass, but this legislation will have exactly the same effect in this country, namely that he will not succeed in killing the spirit of the working classes in this country. He will embitter the feeling between the working classes, on the one side, and the employers on the other. Is that the object of the Trade Disputes Bill? What is the object of the Trade Disputes Bill? The object is to prevent and settle trade disputes, and instead of settling and preventing trade disputes, the Honourable Member is seeking power from this House which will result in not settling or preventing trade disputes, but in creating a plethora of trade disputes throughout the country. In industries in which there has never been a shadow or has never been a murmur of trouble—even when there has been trouble it has been settled either amicably or after some little difficulty in those industries—by the passing of this measure, and by incorporating this particular provision in this measure, I say and I assert, and I shall prove it, and I hope the Honourable Member and I will live to prove it, that in these industries the Honourable Member is going to create graver and graver trouble and constant friction between employers and workers. Strikes that nobody ever dreamt of before, will be the inevitable result of the passing of this particular provision in this measure. I want to ask those great custodians of the industries in this country who are so unfortunately absent from the House today, I want to ask them what will be their attitude towards this? Are they wanting peace in their industries? Their constant cry has been that there is a slump in industry in India and that they want peace, they want security, and that they do not want any trouble. I want to ask them, what is their attitude going to be if, as I assert—and I assert with authority—as a result of the passing of this measure, there is going to be a great deal of trouble in this country, there is going to be a series of strikes where nobody ever dreamt of a strike, a great deal of hardship inflicted upon the poor and a great number of men sent off to prison for no conceivable crime that they have committed, except merely perhaps that they have ceased to work when they found they could not continue under the existing circumstances? I ask, what is the attitude of these great entrepreneurs, these captains of industry, in this country in regard to this particular provision of the Bill? Now, Sir, I am sorry to say, as far as I can recall, not one of them, barring my friend Mr. Fazal Ibrahim Rahimtulla, has spoken on this Bill; and therefore I am in the dark as to what their attitude is going to be in regard to this measure. What is their attitude going to be when this fact is prominently brought home to them, that when they desire to prevent trade disputes, the present measure, if passed, is going to bring about just the contrary effect? Has the Honourable Member considered this position? And was it for this reason that in the Preamble to the Bill it is put down:

"to make provision for the investigation and settlement of trade disputes, and for certain other purposes."

[Diwan Chaman Lal.]

Now, we all know what those other purposes are, and I consider that they are not certainly the purposes which were meant when this Bill was thought of originally in 1920 or 1924 or 1925, namely, to prevent and settle trade disputes. I am sure those certain other purposes are going to lead to the creation of more trade disputes in this country. Is this the kind of equanimity with which Honourable Members, who are supporting this Bill, are going to view the result of the passing of this provision? Or are they going to inform the Honourable Member that they cannot conscientiously be parties to this grave injustice being inflicted on the working classes, to a measure which is going to create more trouble for the Government and for the working classes of this country?

Now, Sir, the Honourable Member was talking about the right to strike, which is now being denied and taken rightaway from the workers by the passing of this particular provision. Some Honourable Member said on the floor of this House that he did not want the working classes to be exploited by the politicians. That same gentleman, who said that, is ready enough to exploit the working classes for his own benefit. After all, if the politicians do exploit them—I deny that statement emphatically, but taking it for granted that the politicians do exploit the working classes of this country—they do that with a high motive, namely, to arouse them from their lethargy. I find the Honourable Member on the other side smiles—he has never been a politician all his life, he has only been an official. Little does he know about the difficulties of politicians or of the political life of this country. The politicians do so because they feel that even those working classes must demand their inherent right, the right of self-government, the right to govern themselves. Even those classes must demand the right to live a decent life. What is the political advantage that I or my friend Mr. Joshi can derive by exploiting all these working classes? We know what particular advantage my friend, Mr. Fazal Ibrahim Rahimtulla, can derive by exploiting the working classes. You see the happy and prosperous look in his face. Where does it come from? I saw from the wealth which he has got and which was earned for him by the working classes. Whoever is a millowner whoever is a factory-owner or whoever is a capitalist, employing workers, I say that man exploits the workers and gets his wealth out of the exploitation of the working classes.

Now, we are told that this measure is being brought forward in order to prevent the exploitation of the working classes by the politician. That we have heard time and again, but what does it mean? Let me analyse this charge. On what occasion—I want the Honourable Member to enlighten me on this point—during the last nine years in this country has there been a single instance in which any politician, for the sake of exploiting the workers, has gone and instigated a strike? Will any Honourable Member have the courage on the floor of this House to stand up and give me one instance? I can, on the other hand, say that I, who have dealt with a large number of strikes during the last nine years, small or big, involving sometimes more than 50,000 workers at a time, have never, in my whole experience of the labour movement, instigated a strike; but on the other hand I have been instrumental in settling numerous strikes in different parts of the country throughout India. I cannot conceive of a man who

would go out of his way and act criminally in this fashion, i.e., to instigate a strike for the fun of it. It cannot be denied, unless anybody wants to say so purely because it happens to please the Honourable Member to make a remark like that or may please any other Honourable Member. I say it is not true, it is a false statement to make that there are politicians in the labour movement trying to exploit the working classes. But it is a true and correct statement that all these captains of industry, the representatives of whom sit in those Benches, constantly and ceaselessly exploit the working classes for their own personal gain. (Hear, hear.)

How is the Honourable Member going to prevent the working classes from developing their own politics, by passing this Bill? Does the Honourable Member realise, and do not Honourable Members realise, that if the landowners have their own politics and have seats allotted to them in this House, that if my friend Mr. Fazal Ibrahim Rahimtulla can have his own political creed whatever it might be—it might be even difficult to tell what it is at times—the labouring classes should not be prevented from having their own politics? Is it something inherently immoral, is it something wrong in the working classes, to demand that they should have also their own politics, their activities and their own aims and that they should agitate for those political aims? What are the political aims of the working classes? I am speaking Sir, with reference to this particular clause. For instance, take the eight hours' day. The Honourable Member knows that the Washington Convention declared in favour of the eight hours' day. But unfortunately, India was deliberately excluded from the strict provisions of that Convention, and certain modifications were introduced with regard to the Convention as it affected India. Now, this matter was raised by us at Geneva last year, and it was said: "Yes, because of the peculiar situation in India, certain modifications had to be made in regard to India". Now, Sir, there are the coal-miners, the dock-workers, the seamen. . . .

**The Honourable Sir Bhupendra Nath Mitra:** Are all these relevant to the clause we are dealing with, Sir?

**Diwan Chaman Lal:** If the Honourable Member will have one minute's patience, he will realise it is relevant. I am sure that the Honourable Member does not regard this measure with that seriousness with which I am regarding it. If he will only have patience—it is his job, he is paid for it, I am not; he is paid to have patience, I am not. I want him to exercise patience in regard to this Bill. Suppose the railwaymen, the dock-workers, the seamen, the coal-miners, and the textile workers—they all combine and say: "It is our right, we shall demand an eight hours' day." Suppose the miners say; "We shall declare a strike tomorrow if we do not get an eight hours' day", and then the strike is declared and all the other classes of workers join them in a sympathetic strike to enforce the demand for an eight hours' day. Does not the Honourable Member realise that he is penalising everybody? He shakes his head. It may be that it is not a dispute outside the particular industry. The dispute arises, say, with the miners—I am only giving an example, and I want the Honourable Member to follow me—and they declare that they want an eight hours' day. In sympathy with that demand, all the other workers falling under the categories I have mentioned also declare a strike, but they do so only in sympathy with that demand. Can the

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Honourable Member point to any provision here which prevents those strikes being declared illegal? Will the Honourable Member  
 4 P.M. point out any word here which prevents the authorities from tackling these strikes and declaring them to be illegal? Of course they would be illegal. . . . .

**The Honourable Sir Bhupendra Nath Mitra:** It is no use my interrupting the Honourable Member; he will never understand that particular clause.

**Mian Mohammad Shah Nawaz:** He never does.

**Diwan Chaman Lall:** I am very glad to get that certificate from my Honourable friend, Mr. Shah Nawaz. . . . .

**Mian Mohammad Shah Nawaz:** What else can I say after what you said that there was no analogous section in the English Act of 1927 to clause 15 of the present Bill.

**Diwan Chaman Lall:** The Honourable Member has just awakened from deep slumber apparently (Laughter). If he had been listening to what I have been saying. . . . .

**Mian Mohammad Shah Nawaz:** I will awaken you from your slumber if I get a chance to speak and expose your ignorance of the provisions of the English Act of 1927.

**Diwan Chaman Lall:** The Honourable Member says that I do not understand him. Let me try and make him understand for a minute. I wish the Honourable Member would pay attention himself to what I am saying for a moment. He is so obsessed with his own ideas and his own particular line of argument that he has chalked out for himself, that it is impossible to put anything into the mind of the Honourable Member. Let me take this clause. It says:

"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."

Now, Sir, in the example that I gave, the railwaymen have an object other than the furtherance of a trade dispute within the trade or industry: that is to say, they are coming out in sympathy with the demand made by the miners. It is not a demand made by the railwaymen; it is a demand made by the miners; but the railwaymen, in sympathy with the miners, come out on strike. Is there any provision which prevents that strike from being declared illegal? I agree that there is the further provision, "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." But I take it that, if the railwaymen come out, it would inflict general and prolonged hardship on the community and thereby act to compel the Government to alter its decision. The Honourable Member has taken a decision in regard to the Washington Convention and says, "No. 8-hour day. Only on the basis of the Washington Convention as applied to India." The workers, Sir, want

an eight-hour day, and one particular class of workers, the miner, says: "We want an 8-hour day; and if you do not give it to me tomorrow I shall go on strike; if you do not put legislation through in the Legislative Assembly, we will go out on strike." The railwayman says "hear, hear, I shall be at your back." The result is severe and prolonged hardship caused to the community. Now, Sir, because the railwaymen have gone on strike, or the dock-workers have gone on strike, or the mill-hands have gone on strike in sympathy, is that strike illegal or not? If I am wrong in my understanding of this clause, will the Honourable Member kindly get up and tell me whether I am wrong, where I am wrong and whether he is right. I pause for a reply, Sir, before I proceed further.

**The Honourable Sir Bhupendra Nath Mitra:** Obviously, if both conditions are satisfied, it would be an illegal strike, and that is precisely what the law will provide for to safeguard the community against severe, general and prolonged hardship.

**Diwan Chaman Lall:** Quite right. That is exactly my point, and I trust the Honourable Member will now say that I am not wrong. . .

**The Honourable Sir Bhupendra Nath Mitra:** Because the Honourable Member was then referring to only one of the conditions.

**Diwan Chaman Lall:** Does that improve the case of the Honourable Member, I want to ask? Of course here we are dealing with a legitimate trade union matter—not a political demand. It is not a political demand; it is not a demand for independence in support of my Deputy Leader, Mr. Srinivasa Iyengar; nor is it a demand in support of Dominion status—the demand made by my Leader, Pandit Motilal Nehru. Nor is it a demand to do nothing—the demand made probably by Sir George Rainy. It is a legitimate trade union demand. What does it say? It says that, in this industry, we do want an 8-hour day. Today you have got shifts in the coal mines up to a limit of, I think, 12 hours. They say, "No. We do not want this at all; we want shorter hours; we want an 8-hour day." The railwaymen say, "We want an 8-hour day." The textile workers, who work 10 hours a day in Bombay, say, "We want an 8-hour day." But they say all this after the miners have said so, and after the miners have gone on strike after saying so; and in order to help the miners to win their demand, which may possibly affect the chances of winning their own demand later on, they say, "All right, my friends, we shall be ready and we shall go on strike in sympathy with you," thus causing grave hardship and prolonged hardship to the community. Such action is illegal. What justification has the Honourable Member for making that illegal? When a particular demand in a trade union regarding wages and hours of work is put forward legitimately by a legitimate trade union, and that trade union calls for the sympathy of other workers who are allied and who probably belong to one organisation, of which they are all members, why should the Honourable Member come and penalise the action taken concertedly by all these workers? Is there any justification for that?

**Lieut.-Colonel H. A. J. Gidney:** Because under the clause it is illegal.

**Diwan Chaman Lall:** Of course it is illegal; I am saying it is illegal and therefore I ask what justification have you to make it illegal.

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Now, Sir, as the Honourable Member referred to a book that he read out, concerning the International Labour Office, let me also, dealing with this particular matter, read out a few extracts :

"No effectual legislation or administration can be without a "sanction." If, therefore, industrial organization is to develop at least in part independently of political government, will it be possible for such organization to avoid appeals to a government for "force" to provide a sanction? Clearly if either an employers' association or a trade union or an industrial council is to rely for the operation of its agreements and rules upon the police, it will inevitably become a part of the machinery of political government."

It is not we who are giving politics to the labour movement, but it is the Honourable Member who is mixing up the labour movement with politics by bringing in repressive legislation of this kind because, under it, it is left to the police to put his ideas into force and to shove those ideas down the throats of the working classes, and if they do not accept his ideas, so much the worse for them: give them a taste of His Majesty's prisons. (Hear, hear.)

"If agreements between trade unions and employers' associations are operative only by being statutory or enforceable at law, the agreements lose entirely their non-governmental character and the parties to such agreements are no longer autonomous. The State cannot enforce an agreement without some control of its terms; but there is no necessity that the State should enforce it. In actual fact, another type of sanction exists. First, there is the power of exclusion from privileges. Any organisation complete enough to include most of the members in a trade is strong enough to make the will of those members effective by driving out of the trade anyone who resists that will. This is the old power of excommunication or ostracism or outlawry. Secondly, there is the sanction known as direct action. This involves the cessation of work, either by the ordinary 'strike' or by the 'stay-in strike' or what is sometimes known as 'caccanny', 'working to rule' on railways, or 'going slow'. This method is, at first sight, very crude; for it implies that the only way of organising production is by ceasing to produce or threatening to do so."

This, Sir, is the fundamental right which the Honourable Member is denying to the working classes :

"The method is like war in the organisation of the relation of governments; it is an appeal to a balance of forces, when a decision cannot be reached by the only proper method for reaching a just decision—reasoning. But in the world, as it is, the method is in fact used; and it has been found in some ways beneficial. Its use can only be made unnecessary by the discovery of (1) general principles, agreed upon by all parties, on which a dispute may be judged, and (2) a method of applying those principles."

Now, Sir, by the methods which the Honourable Member is attempting to foist upon the working classes, namely, the baton of the policeman :

"A more important point in regard to direct action is that it involves the administrative problem of the responsibility of agents. A strike may be not so much a method for enforcing claims of the strikers as a refusal to work for certain ends."

(I want the Honourable Member to pay attention to this)

"This is the case with most 'sympathetic' strikes, and with strikes for what are called 'political' purposes."

And, Sir, these are the strikes which the Honourable Member is seeking to make illegal :

"The philosophers have said that no man ought to be simply a means or passive instrument of the will of another; for no man ought to divest himself of all moral responsibility for the results of his actions . . . If, however, this occurs, on every ground of political and moral principle, he should 'strike'—that is to say, he should cease to do or refuse to do what he cannot do as a moral being. He cannot act morally as an animal or a non-moral machine."

Not only is there a deeper political principle involved in this, but there is also a moral principle involved in this. If a certain body of men find themselves morally compelled to cease work in sympathy with another body of men, no matter if the result is the infliction of severe and prolonged hardship upon the community, have they or have they not a right to exercise and bring into full play their moral sense and do what their conscience dictates them to do? The Honourable Member has a very high appreciation of the moral sense. I want him seriously to consider this point of view and to see if he can justify the action that he is taking in making it penal for a man to act up to his own morality, to give effect to his own conscience, to carry out the dictates of his own conscience, and if such an eventuality should arise, the Honourable Member knows that, under the provisions of this Bill, such a man or such a body of men will never be able to act up to their conscience, because if they do so, they are immediately brought under the provisions of this law.

Sir, it has been said that one of the objects of this Bill is to prevent the working classes from being utilised for purposes of political action. I want to say that there is no method known today, in the year 1929, of distinguishing what is political from what is economic, for the simple reason that, if the Honourable Member knows anything at all about economic history, he will find that it has been asserted time and again by numerous economists that all our political activities have, as their basis, economic forces. What are we here for? Even in this Chamber our legislation partakes of a colouring of the economic forces that are mixed up in political action. How can anybody distinguish between the two? Is it a political demand, for instance, to say that the working classes want representation on the Central Legislature in order to better their condition, or it is an economic demand? How is it possible to differentiate the two? Is it a political demand for the working classes to say, "Well, we must capture the organisations that exist in this country, namely, the Provincial Legislatures or the Municipalities or the Local Boards or the Central Legislature; we must have a fighting programme and an organisation for the purpose of capturing them"? Will that be considered as purely political action, knowing that the inevitable result of that would be, they would better their own condition? It is not possible to distinguish one from the other, and when we talk about a general strike, with which I shall deal in a minute, which it is one of the objects of the Honourable Member to make illegal, by the provisions of this Bill, it is not possible to tell, in the case of a general strike, whether it is purely for political objects or for purely economic objects. Whatever the objects may be, the question is, are you going to make a general strike illegal by the provisions of this Bill, merely because the employers ask you to do so, or merely because the conservative in Great Britain, in a moment of temporary aberration, has taken the law into his own hand and passed a law to this effect? Is that the reason? I shall show presently to the Honourable Member that, even in Great Britain, when there was a desire to make a general strike illegal, it was not as a result of what actually happened in 1926, but a series of Acts had been committed by the Conservative Party during the last few years of its power which are to be considered on the basis that they were Acts of a class nature against

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the working classes, and it was in pursuance of the general strike of 1926 that the Trade Union Act of 1927 was brought upon the Statute-book. Now, as an authority for that, let me draw the attention of the Honourable Member to the debate that took place in the House of Commons. Mr. Clynes, as the acting Leader of the Opposition on that occasion, speaking on that Bill, which is in very many respects similar to the Bill we are now discussing, said :

"This Bill is not due to the fact that there was anything like a general strike last year. The industrial troubles of last year are not the cause, though they are being made the occasion for this particular purpose. 11 separate Bills have been introduced from that side of the House during the last 6 or 7 years, all exhibiting the spirit of this Bill and aiming at the present liberties and activities of organised labour. Millions of Tory leaflets, before this Bill was introduced, have been circulated to Tory organisations, and thousands of speeches have been made from Tory platforms on the lines of this Bill. I particularly ask the attention of the Prime Minister to the fact that for a long time now it has been the purpose of his considerable following to sow internal dissensions in the trade unions as between their members and their leaders, to exhibit the trade unions as 'wasteful, money-squandering organisations, doing nothing in return commensurate with the contributions which the members pay'."

Now, Sir, if that was the policy of the Conservative Government, a deliberate, calculated policy, in order to rob trade unionism of its effect, in order to rob trade unionism of its influence and of its power, what necessity is there for the Honourable Member to bring in a similar legislation on the floor of this House? Who is dictating this policy? For whose good and for whose benefit is this policy? I want that matter to be made perfectly clear, and I hope the Honourable Member will enlighten the House as to the policy behind this measure. What is it? What is the underlying policy? Is it a policy merely for the benefit of the working classes? If it is so, I challenge that statement, and I shall show that that cannot be true. Is it a policy dictated by the Conservative Government in Great Britain, as was alleged by my Honourable friend, Mr. Kelkar the other day? Is that the policy? Or is it the fear of the communist movement in this country, the communist movement which will lead you on to a general strike? Let us have it clearly and unequivocally from the Honourable Member. Let us know what is in their minds. Let them not hide themselves behind the succulent statement that this legislation is for the benefit of the working classes of this country. What is the policy behind all this? I want to know it, Sir. I submit, Sir, the policy is not any different, as far as I can make out, from the policy which dictated the programme of the Conservative Party when a similar measure was brought before the House of Commons in 1927, and that policy was a deliberate attack upon the working class movement. And if, Sir, I may be permitted for a moment to refer to the past action of the Government, I say that this contention of mine is borne out by the action that they have been taking during the past few years.

Take, for instance, the Public Safety Bill. They are afraid of what? They are afraid of the labour movement. There is this Trade Disputes Bill, and here too they are afraid of the labour movement. What happened to all the promises that we have had on the floor of this House in regard to the benevolent attitude of the Government or some of its heads towards the working classes? Why does not the Honourable Member

move and bring in measures for the betterment of the working classes in this country, instead of bringing in penal measures which have nothing to do with the betterment of their condition? Why all this tremendous hurry? What is the necessity for bringing in this penal legislation and utterly ignoring the other side of the picture, namely, that the condition of the working classes is such that it needs amelioration? The first duty of a Member in charge of the Labour Department should be to introduce legislation in order to ameliorate the condition of the working classes. Therefore, I submit, Sir, that there must be a policy behind it, a policy that is probably dictated, from beyond the seas. (Hear, hear.) If that is so, then I ask Honourable Members here to agree with me when I say that they must not be parties, elected Members must not be parties to the programme of the Government, a programme which in my opinion is being dictated to them over their heads in a manner which suggests that they themselves are doing it, not reluctantly, but as parties to a conspiracy against the working class movement in this country. Now, Sir, this is what Mr. Clynes further said:

"The country has suffered, but no matter how deep and serious the suffering may be, there are rights that cannot be cancelled by a majority in this House having no authority from outside and no mandate from the country, and one right upon which we shall insist so far as we are able is the right of masses of workmen to exercise their full freedom, whether employed by the Government or no, to sell their labour or to withhold it as they may choose."

The Honourable Member was talking about the right to strike. It is the fundamental right of the working classes to give their labour or to withhold their labour, and it is not for the Honourable Member to bring in penal clauses, in order to prevent the working classes from dealing with their labour, which is their own, in the manner they choose to deal with it. Now, Sir, this particular provision militates against this one principle of the freedom of the working classes to sell their labour or withhold their labour as they choose. All that the Honourable Member could hope for, all that any reasonable man in this House could hope for, is to make a man who breaks a contract with his employer liable for a civil action.

My Honourable friend, Pandit Thakur Das Bhargava, said a little while ago that, as far as these clauses are concerned, you are importing a new theory of criminality into this Bill. The question of *mens rea* does not arise; there is no criminality in a man ceasing his work. He is not committing a crime, not even a moral crime when he ceases to work in sympathy with his fellow workmen, even though it causes hardship to the community. Where is the criminality? Where is the *mens rea*? I hope the Honourable the Law Member will enlighten us, because he is a student of jurisprudence, as to the principle of jurisprudence underlying the importation of the idea of crime into a man attempting to cease work in sympathy with his fellow workmen, even though it causes hardship to the community. Has he or has he not the right to do so? Today he has, and tomorrow, when the Honourable Member gets this measure passed, probably he will not have. But how is that going to help the Honourable Member? Is it going materially to solve the difficulties that confront the labour movement? Is it going to solve any difficulties for the Government? Does he not realise that, far from solving all those difficulties, the Honourable Member will have to open new jails in order

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to fill them with those people who deliberately, after the passing of this measure, will take it into their heads to assert their rights as freemen? There can be no greater slavery than that a man should be compelled to work when he does not want to work. I ask, if there is any worse slavery than that of a man being compelled to continue to work at his occupation, or a body of men being compelled to remain at their occupation, when they, for moral or economic reasons, consider it wrong that they should continue to work? And that is exactly what will happen by the passing of this Bill.

I say, Sir, in view of the fact that the Government have not got a mandate behind them for the passing of this measure against millions of workmen in this country, that it is not right for them, not moral for them, not honest for them, not just for them, to come forth with a Bill of this nature and get it passed with the votes of Members who are nominated, officials or non-officials, and with the assistance of the vested interests. I say, it is wrong, morally wrong for them to do so. The only way in which they could have got the consent of the people for a measure of this nature is for them to have circularised the trade unions, namely, the people who are affected by this measure and get their consent to the passing of a Bill like this. The Honourable Member knows that the opinions, so far expressed, are contrary to the acceptance of this particular provision in the Bill, and knowing that, knowing that the labour movement is dead against it, knowing also that the overwhelming majority of elected Members are dead against it, who are present here in this House, and knowing that he is carrying or that he is attempting to carry and will carry perhaps this measure in the teeth of all this opposition, I ask, what moral justification he has for passing this measure. He has no moral justification whatsoever, except the eternal and inscrutable wisdom of the Government of India which passeth all understanding.

Now, Sir, this matter has been debated at length in other places, but I want now to deal with the inter-relationship of industry by which it will be apparent that the provisions of clause 16 will be absolutely nullified, will have no effect whatever in the present state of industry in India. Mr. Clynes said:

"I want to call the Right Honourable gentleman's attention to the view that they have in his own profession. In medicine, in law, in business, or in commerce there are acts done by gentlemen corresponding to those done by men who are dressed in fustian. Why this great solicitude for the workman renegade and for the blackleg? If a body of doctors or lawyers resolve upon a certain course of action, and their association endorses it, any desertion from the decision is at once published by a form of boycott. Offending members are put into disgrace. Their act is regarded as professionally improper, and they may even be struck off the roll to be publicly branded as guilty of an infamous act in relation to their own class."

But here, by this Bill, a blackleg is sought to be protected! He further said:

"We assert also the right of groups of workmen, regardless of their employer or occupation, to act sympathetically with each other. To deny their right so to act is virtually to destroy the first principle of organisation. This Bill is an elaborate denial of everything in the present practice of organised labour. We shall, therefore, not submit to the mockery which this Bill presents. Upon what ground do the Government claim that dock workers shall not act with tramway men, or taxi-cab men act with both? Upon what ground do the Government claim the right to separate and segregate each one in a trade or industry and compel each group in that way alone

to fight its battles? They do it on the ground that it is an act to coerce the Government and is, therefore, wrong. Who is to judge what is right and what is wrong? Why the Attorney-General, the representative of the Government for the time being. The Bill, in short, means that while a group of men may cease work, if they do so they must cease everything else. They must do nothing to make their strike a success once they have entered into it. They must not be guilty of such a scandal as pouring ridicule or contempt upon the blackleg. They must not make wry faces at him, or say 'Boo!' to one who deserts his class. I understand now why in the earlier stages of such a debate as this the Home Secretary pointed out to the House that it was not legal for one person to boo another."

I think it is a very correct interpretation of this provision that Mr. Clynes gave in the House of Commons, namely, that Government is attempting to make illegal sympathetic strikes for no other reason but this, that they may result in inflicting hardship upon the community and coercing the Government. Why should not Government be coerced? Government is the biggest employer in this country. Why should not Government be coerced into altering its decisions? Government is being coerced every day to alter its decisions. Government is being coerced by the Simon Commission to alter its decisions. The Government was coerced, when the Labour Government came into power for nine months—it was almost coerced into altering its decisions. Every man who threatens to vote against Government and whose vote is necessary for the purpose of Government, coerces that Government, and yet it is only the poor worker, it is the employee of the Government who desires to alter his conditions of employment,—it is the poor worker who is going to be prevented from coercing the Government, although if landlords coerce Government it makes no difference, if bankers coerce Government it makes no difference, if the financiers coerce Government it makes no difference, and if nominated Members coerce Government it does not matter. (Laughter.) If nominated Members coerce the Government, it makes no difference, even if the party of my friend Mr. Shah Nawaz of the Central Muslim Group coerces the Government—it makes no difference. I ask, why should not the workers employed by the Government demand from the Government certain terms of employment which they consider to be just and honourable, and they can only do so by making an attempt to alter the decision of Government, whose employees they are, and if in consequence of that there is a hardship inflicted upon the community, what of that? If the community has got any influence with the Government or with the authorities, then the community will see to it that the demands of the workers are met. It is the inherent right of the worker to give up his work when he knows that the conditions are not honourable. I ask, under what canon of law, justice, equity or decency should a worker be prevented from going out on a sympathetic strike when he knows that the conditions under which his fellow workers work are not honourable, even though hardship is caused to the community? I say, Sir, it is the desire of the Government to weaken the labour movement. They know perfectly well that one body of workers going on strike on their own may not be able to succeed. Now let us take the example of the mill-hands. Suppose they go on strike. The mills cannot work without the power provided for the mills and if the Bombay Electric Tramway Company declare a strike, then naturally hardship is going to be caused to the community. It may be prolonged, it may be severe. Now, I ask, under what moral authority, does the Honourable Member seek to declare it illegal. Have not the workers in the Electric Company the right to go to the assistance

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of their fellow-men who are working in the mills and say, "But for the power that we produce, these mills would not be able to work". There is a definite affiliation between the two industries. But for the power supplied, the mills would not work. Now, I submit, there is every moral justification for one class of worker to come to the assistance of another class of worker and there is every moral wrong in the Honourable Member seeking to prevent one class of worker from assisting another class of worker.

Now, let me come to the interpretation of these clauses. What is, "severe and prolonged hardship," as provided for in clause 16? Let me take the word "prolonged". Is one day sufficient? Are two days sufficient? Is a week sufficient? Where was that particular magistrate born who would be in a position to adjudicate upon the word "prolonged"? Are there any decisions in regard to this matter? No decisions. My Honourable friend, the Law Member, said the other day that he could not define the word "landowner". Can he define the word "prolonged"? I ask him to define that word for me. Can any other Member define that word for me? Then take the word "general". What is a general hardship? Is it a general hardship if all the babies in a particular town are affected? Is it a general hardship if all the deaf, dumb and mute in a particular town are affected by it. Is it a general hardship if no vegetables are provided for the inhabitants in a particular city? What is it? Has it ever been defined? If the Honourable the Law Member cannot define the word "Landowner," how much more difficult must it be for him to define this word. Now, let me take the word "severe". What is a severe hardship? It is a very severe hardship for me to have to speak on this motion, considering that I know perfectly well that every word I say will go through one ear of the Honourable Member and come out by the other. What is severe hardship from the legal point of view? Is there any definition in any legal dictionary for these three terms? Is there any guidance to be given to the magistrate who will try cases under this clause, or is it to be left to his sweet will and pleasure, to his education, his culture or his humanity to come to a decision one way or the other? Now let me take the word "coerce". Is it coercing the Government to make a demand for better wages?

**Lieut.-Colonel H. A. J. Gidney:** There is no definition.

**Diwan Chaman Lall:** My friend, Colonel Gidney, says there is no definition of this.

**The Honourable Sir Bhupendra Nath Mitra:** The word "coerce" does not appear in the Bill before the House.

**Diwan Chaman Lall:** I am sorry. I beg the Honourable Member's pardon. I was referring to the English Act. The word used is "compel". Now, I ask the Honourable Member—to compel the Government to do what? Am I to be considered as a man who is compelling the Government to take a particular course of action when I say that I want an eight-hour day, and I go in for a sympathetic strike which may involve severe, general and prolonged hardship on the community? Is that compelling the Government to take a particular course of action or to abstain from taking a particular course of action? I want the Honourable the Law Member, when he does speak, to make these points clear, because, as he

knows, even in the English Act, these terms or similar terms which have been used, are hedged round with a great deal of difficulty. Now, let me tell the House what the English Act has to say about it. The phrase "sympathetic strikes" is not used in the Act. The Government's declared intention was to make the strike of 1926 impossible. The first paragraph is declaratory. Now, these two expressions "general strike" and "sympathetic strike" are not to be found here. Nevertheless the intention of the framers of the English Act was to declare the general and sympathetic strikes to be illegal. That is exactly the intention of the Honourable Member in regard to the provisions of this Bill. Suppose this Bill becomes law, and an instance arises in which the matter is referred to a Law Court, they will obviously have to consider the words that I have used which, to my mind, have no significance. They are so vague. If my words are vague, they are vaguer still. If it was impossible for the Law Member to understand those words it is much more impossible for him to define these four words that are used here in clause 16.

Now, let us take the position as to what will happen in case this Bill is passed. What has happened in Great Britain? These are the conclusions that certain legal authorities have come to in regard to some similar provisions in the English Act. The illegality declared by this clause covers some, but not all, sympathetic strikes. A strike by workmen in support of other workmen within the same trade or industry would presumably not be held to be illegal, whatever hardship it might inflict on the community. This is one point to be considered. If the reason for bringing in this clause is to prevent the severe and prolonged hardship upon the community, then, as the Honourable Member knows, even according to this clause 16 a group of men in the same trade going on strike in sympathy with another group of men on strike and thereby causing grave hardship, prolonged and severe, cannot be prevented from doing so by Government. So if the reason is to prevent that strike, that aim is not achieved. Of course, I am not suggesting to the Honourable Member that he should now proceed to amend his Bill in order to achieve it. What I am suggesting is that that aim cannot be at the back of his mind, in bringing forward this measure, because if that aim had been at the back of his mind, then he would have taken steps to see that, in no circumstances, should it be a legal strike if it was prolonged and caused hardship to the community with the object of compelling the Government to do something. This is the exact interpretation which would apply to the provisions of clause 16. On the other hand, a strike by workmen in support of workmen employed in some other trade or industry will presumably be held to be illegal if the effect of their striking ought reasonably be expected to result in inflicting a hardship on the community and thereby in compelling the Government. Now, this is the interpretation of it:

"Secondly, it covers a primary strike where the object exceeds the furtherance of a trade dispute within the trade, hardship is inflicted and Government compelled. It would be held to cover a strike by the miners for the purpose of securing nationalisation of mines."

That is an interpretation which is given to the word "illegal" in the English Act.

The next point is that it has any object other than the furtherance of a trade dispute within a trade or industry. Even a strike in one particular trade by a group of workers would be declared to be illegal under clause 16

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provided the object is something over and above the furtherance of a trade dispute

**Mr. President:** Order, order. Is the Honourable Member likely to finish in a few minutes?

**Diwan Chaman Lall:** I do not think so, Sir. I would like to go on for some time more.

**Mr. President:** I propose to allow Honourable Members an opportunity, as soon as possible, to state their views on the point of order in connection with the Public Safety Bill, but that cannot be done today. So, I will do so tomorrow morning at 11 o'clock, first thing in the morning, and then ask the House to resume discussion on this particular amendment.

The Assembly then adjourned till Eleven of the Clock on Friday, the 5th April, 1929.