

Friday, 1st April, 1938

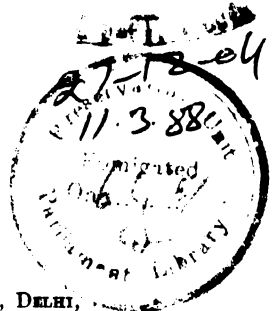
THE
COUNCIL OF STATE DEBATES

VOLUME I, 1938

(14th February to 8th April, 1938).

THIRD SESSION
OF THE
FOURTH COUNCIL OF STATE, 1938

Member designated... 18/4/38



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COUNCIL OF STATE.

Friday, 1st April, 1938.

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

MEMBERS SWORN :

- The Honourable Mr. Shantidas Askuran (Bombay : Non-Muhammadan).
The Honourable Mr. Andrew Gourlay Clow (Labour Secretary).
The Honourable Sir Muhammad Yakub (Nominated Non-Official).

QUESTIONS AND ANSWERS.

INDIA'S CONTRIBUTION FOR THE RELIEF OF THE VICTIMS OF THE CIVIL WAR IN SPAIN.

252. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Have Government made a contribution of £2,000 or any other sum to the International Red Cross Society, or any other institution for relief work in the Spanish civil war ? If so, when and to whom ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Yes. A contribution of £2,000 was made to the International Red Cross Committee, Geneva, in February this year for the relief of the victims of the Civil War in Spain.

RESEARCHES FOR TURNING SHORT STAPLE COTTON BY CHEMICAL PROCESS INTO FIBRO SERVING THE PURPOSE OF LONG STAPLE COTTON.

253. THE HONOURABLE MR. G. S. MOTILAL : (a) Will Government state whether any experiments have been conducted in their research institutes for turning short staple cotton by chemical process into fibro which serves the purpose of long staple cotton ?

(b) If the answer to (a) is in the affirmative, what has been the result and what is the cost of such process per pound of cotton in question ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Preliminary experiments on the conversion of short staple cotton into chemical cotton have been made at the Technological Laboratory of the Indian Central Cotton Committee and the Committee have under consideration the question of installing a pilot plant for continuing the experiments on a semi-commercial scale.

(b) The results so far obtained indicate linters and waste as the only possible cotton raw materials, short staple cotton being far too expensive. Until the pilot plant is installed and the experiments are completed, the cost per pound cannot be worked out.

NUMBER OF EUROPEAN AND INDIAN TRUSTEES IN THE PORT TRUSTS,
ETC.

254. THE HONOURABLE MR. G. S. MOTILAL: (a) Will Government state the number of European and Indian trustees at present in the different Port Trusts of India and the number of Indians holding the position of chairman, deputy chairman and secretary in each of them ?

(b) What action have they taken since 1922 to Indianise Port Trusts and the higher services under their control ?

(c) What is the number—

(i) of Europeans, Anglo-Indians and Indian officers in the employ of the different Port Trusts of India who are receiving salaries of (1) Rs. 500 to Rs. 999, (2) Rs. 1,000 to Rs. 1,999 and (3) Rs. 2,000 and over ;

(ii) of Indian officers newly appointed under the above three groups since 1932 ; and

(iii) of Indians, Anglo-Indians and Europeans working under the Bombay Port Trust and in other Port Trusts of India in the capacity of pilots, dredging officers, chief engineers, assistant mechanical superintendents, mechanical foremen, assistant engineers, chief draftsmen and deputy conservators ?

(d) How many Indians and Anglo-Indians are holding posts requiring mercantile marine qualifications, and the total number of such posts ?

(e) How many cadets trained in the "Dufferin" are employed in the different Port Trusts of India and in what capacities ?

THE HONOURABLE MR. S. N. ROY : (a) A statement is laid on the table.

(b) Since 1922, the various Port Acts have been amended to provide for increased representation of Indian commercial interests on the Boards. As regards the Indianisation of the higher Port Trust services, the powers of Government in this matter are limited as, except in the case of certain high posts, the statutory authority to make appointments is vested in the Port Trusts themselves. The percentage of Indians holding appointments with a maximum salary of Rs. 500 and above has risen from 9.4 in 1925 to 44.3 in 1936-37.

(c) and (d). Four statements are placed on the table.

(e) Seven ; mostly as Assistant River Surveyors.

I

Statement showing the number of European and Indian Trustees in the different Port Trusts.

Ports.	Trustees.		Total.
	Europeans.	Indians.	
Calcutta	14	5	19
Bombay	12	10	22
Madras	11	4	15
Karachi	8	7	15
Chittagong	8	4	12

II

Statement showing the number of Europeans and Indians occupying the posts of Chairman, Deputy or Vice-Chairman and Secretary in the different Port Trusts.

Ports.	Chairman.	Deputy or Vice-Chairman.	Secretary.
Calcutta	European	European	European.
Bombay	Do.	..	Do.
Madras	Do.	..	..
Karachi	Do.	Indian	Indian.
Chittagong	Do.	Do.	Do.

Statement showing the number of Indians, Anglo-Indians and Europeans in the employ of the different ports of India who are receiving salaries of (1) Rs. 500 to Rs. 999, (2) Rs. 1,000 to Rs. 1,999 and (3) Rs. 2,000 and over.

Ports.	(1) Rs. 500 to Rs. 999.			(2) Rs. 1,000 to Rs. 1,999.			(3) Rs. 2,000 and over.		
	Indians.	Anglo-Indians.	Europeans.	Indians.	Anglo-Indians.	Europeans.	Indians.	Anglo-Indians.	Europeans.
Calcutta	14	53	52	3	6	42	..	..	9
Bombay	23	8	42	6	..	24	1	..	6
Madras	4	..	6	..	..	2	..	..	1
Karachi	4	2	7	3	..	9	..	..	2
Chittagong	1	..	5	..	..	3	..	..	..
Vizagapatam	3	3	10	..	..	3	..	..	1
Cochin	3	..	11	..	..	3	..	..	1

Statement showing the number of newly appointed Indians in the various Ports since 1932 who are receiving salaries of (1) Rs. 500 to Rs. 999, (2) Rs. 1,000 to Rs. 1,999 and (3) Rs. 2,000 and over, excluding promotions.

Ports.	(1) Rs. 500 to Rs. 999.	(2) Rs. 1,000 to Rs. 1,999.	(3) Rs. 2,000 and over.
Calcutta . . . . .	..	1	..
Bombay	2	1	..
Madras	1	..	..
Karachi . . . . .	..	..	..
Chittagong	1	..	..
Vizagapatam . . . . .	..	..	..
Cochin . . . . .	..	..	..

Statement showing the number of Indians and Anglo-Indians holding posts requiring mercantile marine qualifications and the total number of such posts.

Ports.	Indians.	Anglo-Indians.	Total.	Total posts.
Calcutta	3	20	23	92
Bombay	1	..	1	30
Madras . . . . .	..	..	..	6
Karachi	2	..	2	12
Chittagong . . . . .	..	..	..	4
Vizagapatam . . . . .	..	..	..	4
Cochin . . . . .	..	..	..	6

APPLICATION OF THE NEW LEAVE RULES BY THE E.I.R.

255. **THE HONOURABLE PANDIT HIRDAY NATH KUNZRU :** Did the Chief Accounts Officer, E.I.R., circularise to all the Divisional Accounts Officers in 1932 that under the orders of the Railway Board on the subject of the applicability of the new leave rules to the staff of the E.I.R., the staff appointed before the 1st September, 1928, whether temporary or permanent on the 1st April, 1930, would have the option of coming under the new leave rules, or of remaining under the old leave rules, and that "in cases where men have not exercised the option it must be presumed that they are willing to be governed by the old leave rules?" If so, are there men in certain departments, particularly in the E.I.R. Workshops who were appointed before the 1st September, 1928, but to whom no option has been given, and who have been brought under the new leave rules? If so, why?

THE HONOURABLE SIR GUTHRIE RUSSELL : The answer to the first part is in the affirmative.

As regards the second part it is believed that there may have been cases of workshop employees and inferior servants in which no declaration of election was obtained, but the new rules were applied automatically as they would operate obviously to the advantage of the Government servant affected.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is it a fact, Sir, that the Chief Accounts Officer stated in his circular that if the men did not choose to come under the new rules, they must be presumed to prefer to remain under the old rules?

THE HONOURABLE SIR GUTHRIE RUSSELL : That is correct.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Then why have the new rules been applied to these men without their consent?

THE HONOURABLE SIR GUTHRIE RUSSELL : Because the new rules are obviously to their advantage.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is there any discontent among the men concerned?

THE HONOURABLE SIR GUTHRIE RUSSELL : I have heard of no discontent but I will make enquiries.

APPLICATION OF THE NEW LEAVE RULES BY THE E.I.R.

256. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Did certain departmental heads on the E.I.R. fail to secure declarations from some members of the subordinate staff appointed after the 1st September, 1928, but made permanent before the 1st April, 1930, to the effect that when new leave rules for railway staff were promulgated, they would be liable to be governed by these rules? If so, why have the subordinates concerned been subjected to the new leave rules? Do Government now propose to take steps to redress the grievances of the men referred to above?

THE HONOURABLE SIR GUTHRIE RUSSELL : The Railway Board's orders requiring a declaration to be signed by all staff appointed on or after the 1st September, 1928 to the effect that they would be liable to be brought under the new leave rules for railway establishments on their promulgation were duly communicated to all heads of departments and Divisional Superintendents on the E.I.R. If such a declaration was not actually obtained from any employee, this should be regarded as an omission, but in view of the condition having been generally made known, such omission cannot form a valid reason for his not being subjected to the new leave rules, and he can have no grievance on this account.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : In the case of men made permanent without being required to sign such a declaration, should it not be presumed that the old rules applied to them?

THE HONOURABLE SIR GUTHRIE RUSSELL : We have had a ruling from the Secretary of State in the case of officers saying that it is not necessary to sign a declaration.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Then why were the officers concerned asked to obtain declarations from men employed after a certain date that they would come under the new leave rules if this was thought to be unnecessary?

THE HONOURABLE SIR GUTHRIE RUSSELL : I do not think it was thought to be unnecessary at the time, but actually that is the ruling we finally got in the case of one or two officers.

NUMBER OF APPRENTICE MECHANICS AND TRADE APPRENTICES ENGAGED ON THE E.I.R. DURING 1935 TO 1937.

257. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What is the number of apprentices recruited for training in the E.I.R. shops during the years 1935, 1936 and 1937? How many of them are Indians and how many are Anglo-Indians?

THE HONOURABLE SIR GUTHRIE RUSSELL : I lay a statement on the table of the House giving the required information.

Statement showing the number of apprentice mechanics and trade apprentices engaged on the E.I.R. during 1935 to 1937.

Year.	Number of apprentice mechanics recruited.						Number of trade apprentices recruited.							
	Hindus.	Muslims	Sikhs.	Euro- peans and Anglo- Indians.	Indian Chris- tians.	Others.	Total.	Hindus.	Muslims.	Sikhs.	Euro- peans and Anglo- Indians.	Indian Chris- tians.	Others.	Total.
1935 .	17	6	..	11	..	..	34	64	28	..	..	7	..	99
1936 .	19	5	..	4	..	..	28	65	27	1	7	..	..	100
1937 .	7.	5	..	13	..	..	25	55	22	2	2	2.	..	83

INDIAN APPRENTICES LODGE, LILLOOAH.

258. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Is the accommodation in the Indian Apprentices Lodge at Lillooah strictly limited and are many apprentices who are refused accommodation required to make their own arrangements ?

(b) Do Government propose to take steps for enlarging the Lodge ? What is the board and lodging allowance allowed to (i) resident apprentices and (ii) those who are required to make their own arrangements ? Is the allowance paid to the latter less than that paid to the former ? If so, why ?

(c) Are Government aware of the complaint that the savings effected in the board and lodging allowance of the Indian apprentices are utilised for the European apprentices on the ground that their standard of living is higher ? If so, will Government state the average sum so utilised monthly ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am obtaining information and will lay a reply on the table of the House in due course.

LEAVE RULES APPLICABLE TO RAILWAY SERVANTS SERVING IN RAILWAY SCHOOLS.

259. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Has no provision in the leave rules recently promulgated for leave on average pay been made for the grant of leave on medical grounds ? Are Government aware that teachers in Provincial Government schools are allowed leave on full average pay on medical certificate ? If so, on what grounds, has no such provision been made in the leave rules referred to above ? Do Government propose to make such provision now ?

THE HONOURABLE SIR GUTHRIE RUSSELL : It is assumed that the Honourable Member is referring to the leave rules applicable to railway servants serving in railway schools. If so, the answer to the first part of the question is as follows :

As the rules are at present worded, it is possible to interpret them as disallowing the grant of leave on average pay (including such leave on medical certificate) to a railway servant serving in a railway school in a year in which he has fully availed of the vacation. This, however, is not the intention of the rules. The intention is that, for the year in which vacation is fully availed of, no leave on average pay is earned, but the amount of leave on average pay earned for all the previous years, minus such leave already taken in the past, can be availed of in that year, subject to the prescribed maximum. Action is being taken to recast the rules so as to make the intention clear.

In view of this reply, the other parts of the question do not arise.

LAHORE FORT.

260. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (on behalf of the Honourable Raja Yuvraj Datta Singh) : In whose custody is the Lahore Fort—the Military authorities or the Provincial Government ?

THE HONOURABLE MR. F. H. PUCKLE : Except for a few buildings used for police purposes which are in charge of the Provincial Government the Lahore Fort is in the charge of the Archæological Department.

APPOINTMENT OF INDIAN APPRENTICES IN SUITABLE PERMANENT POSTS AFTER UNDERGOING TRAINING IN THE E.I.R. CARRIAGE AND WAGON SHOPS, LILLOOAH.

261. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Do the E.I.R. recruit a certain number of apprentices for training in the E.I.R. Carriage and Wagon Shops at Lillooah every year? If so, were none of the successful Indian apprentices given until recently jobs in the shops on the completion of their five years training?

(b) Were some of these men appointed in the shops as chargehands or mistris in temporary vacancies instead of being appointed as chargemen in permanent vacancies and were none of them given the grade and scale of pay to which they were entitled? If so, what action do Government propose to take for securing appointment of Indian apprentices in suitable permanent posts?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am obtaining information and will lay a reply on the table of the House in due course.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : May I request the Honourable Member to change the word "some" in part (b) of the question into "none". The latter word was in the original question and it appears to have been incorrectly printed as "some".

THE HONOURABLE THE PRESIDENT : Has the Member in charge any objection?

THE HONOURABLE SIR GUTHRIE RUSSELL : No, Sir.

THE HONOURABLE THE PRESIDENT : Then it can be done.

EXCLUSION OF INDIANS FROM THE POSTS OF FOREMAN AND ASSISTANT FOREMAN IN THE E.I.R. CARRIAGE AND WAGON SHOPS, LILLOOAH.

262. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are there scarcely any Indians occupying the posts of Foreman and Assistant Foreman in the Carriage and Wagon Shops of the E.I.R.? Are Indian practically excluded from the upper grade of chargemen? If so, on what grounds have Indians been excluded from these posts and Europeans and Anglo-Indians appointed to them?

THE HONOURABLE SIR GUTHRIE RUSSELL : As regards the first part, the available information is given in the E.I.R. "Classified List of Subordinate staff of all departments on rates of pay of Rs. 250 and above", a copy of which is in the Library of the House.

As regards the latter parts, I am sending a copy of the question to the Agent, E.I.R., to examine the allegations of racial discrimination in the question and to take whatever steps may be necessary to give effect to the policy of the Government in the matter.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : As regards the first part of the question will the Honourable Member say whether it is a fact that there are scarcely any Indians. I have seen the Classified List to which the Honourable Member referred—

THE HONOURABLE THE PRESIDENT : Please don't argue. Only put the question.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I am not arguing. I have seen that list and it is not clear from that who are the permanent men and who are not.

THE HONOURABLE SIR GUTHRIE RUSSELL : I think it is correct to say that not a large number of Indians are employed.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Could the Honourable Member give the number of Indians in those positions ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am afraid I cannot give it off-hand.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Honourable Member obtain it and lay it on the table ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am quite prepared to do that.

REPORT OF THE ROYAL COMMISSION APPOINTED TO ENQUIRE INTO THE TRINIDAD AND TOBAGO DISTURBANCES, 1937.

263. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Have Government received a copy of the Report of the Royal Commission appointed last June to enquire into the riots which broke out in the Colony of Trinidad and Tobago ?

(b) Have His Majesty's Government adopted the recommendations of the Commission ? Did they consult the Government of India before doing so ? If not, why ?

(c) Have the Government of India made any representations to them on the subject ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) The Report has been received recently and a copy has been placed in the Library of the House.

(b) and (c). Government are not aware whether any action apart from the appointment of an Industrial Adviser has been taken on the recommendations of the Commission, but have made enquiries and have asked that final decisions should be deferred until they have had opportunity to examine the Report and make representations, if necessary, from the standpoint of Indian interests.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Did Government see in the papers that the Secretary for the Colonies stated that the recommendations of this Commission had been accepted by His Majesty's Government ?]

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : I believe the answer which I have given is correct. We have had a subsequent communication. I understand that the only recommendation of the Commission which has so far been implemented is the appointment of the Industrial Adviser.

CONGRATULATIONS TO THE HONOURABLE SIR THOMAS STEWART ON HIS APPOINTMENT AS OFFICIATING GOVERNOR OF BIHAR AND TO THE HONOURABLE MR. A. G. CLOW ON HIS APPOINTMENT AS OFFICIATING MEMBER OF THE GOVERNOR GENERAL'S EXECUTIVE COUNCIL.

THE HONOURABLE THE PRESIDENT: Honourable Members, following previous practice the Council will expect that I should refer to the two new appointments which have just been made by His Majesty the King Emperor. You are aware that the Honourable Sir Thomas Stewart has been appointed Officiating Governor of Bihar and our old friend the Honourable Mr. Clow has been elevated to the post of Member for Communications. On behalf of the Council and myself I tender our hearty congratulations to these two gentlemen.

The Honourable Sir Thomas Stewart is not in this House at present, but he has occupied with much distinction a place in this Council for many years and shown conspicuous ability in the discharge of his duties. (Applause.) The Honourable Mr. Clow has been in this Council for many years and only very recently he was translated to the Assembly to discharge some important official functions. He has come back to this Council and we all know of his great ability and his splendid and very faithful discharge of his duties over many years in this House. (Applause.) Both these officers are outstanding Civilians of the time and enjoy the respect of everybody. Their appointments and elevation has met with the approval not only of the officials but also of the non-official Members of this Council and of the general public. (Applause.)

THE HONOURABLE MR. A. G. CLOW (Labour Secretary): Sir, I would just like to thank you and through you the Members of this Council for your very kindly references to myself.

PRESENTATION OF A MACE TO THE COUNCIL OF STATE BY THE HONOURABLE MAHARAJADHIRAJA SIR KAMESHWAR SINGH OF DARBHANGA.

THE HONOURABLE THE PRESIDENT: Honourable Members, I have very important and interesting news to give you, that our esteemed colleague the Honourable Maharajadhiraja Sir Kameshwar Singh of Darbhanga has presented a mace to this House. (Applause.) He has particularly asked me to read his letter and I will therefore do it. He says:

" My dear Sir Maneckji,—Apropos the talk we had I write this brief note to confirm that I shall be delighted to present a mace to the Council of State as a token of my high regard for the House and its first non-official and distinguished President. (Applause.) I hope you will do me the honour of accepting the gift "

I had to ask the Governor General's permission to accept this gift and I am glad to say that he has accorded his permission. The Private Secretary to His Excellency the Governor General writing to me says:

" His Excellency has read with great interest your letter of the 24th March in which you inform him of the generous decision of the Honourable Maharajadhiraja of Darbhanga to present a mace to the Council of State. He has great pleasure in according the permission for which you ask to be allowed to accept this mace on behalf of the Council of State "

As regards the ceremony with which the mace will be received into this House I shall consult the Leaders of Parties and other Members at the proper time.

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

STATE RAILWAY COLLIERIES AND COMPANY-MANAGED RAILWAY COLLIERIES.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, I lay on the table the information promised in reply to question No. 135 asked by the Honourable Mr. Hossain Imam on the 2nd March, 1938.

Colliery.	Name of contractor.	Contract rate (per ton).	Date of termination of contract.	Period of contract.	Remarks.
<i>State Railway Collieries.</i>					
Kargali	Madhavji Mepa	1 0 0	31-7-37	3 years.	Contract extended up to 31-7-38.
	Rambhais Nageswar.	(Pit & Incline). 0 11 0	31-7-37	Do.		Do.
Bhurkunda	N. C. Roy & Co.	(Quarries). 0 11 6	31-7-39	Do.	Do.
Girdih	Rambhais Singh	1 2 0	30-4-40	Do.	
	D. Mukherjee	1 2 0 & 1 2 6	30-4-40	Do.	
Jt. Bokaro	Raj Bahadur H. P. Banerjee.	0 10 6	31-7-37	Do.	Do.
Jt. Sewang	Harilal M. Jagani	1 2 0	31-7-37	Do.	Do.
<i>Company-managed Railway Collieries.</i>					
Jarandih	Raj Bahadur H. P. Banerji.	0 11 0	30-6-39	Do.	
Talcher	D. Parkhani	0 11 0	31-7-39	Do.	
Kurasta	Rambhais Singh	0 10 0	30-6-39	Do.	
		0 7 9	31-3-38	2 years.	
Argada	Dya Manji	(Open quarries) 0 12 0			
		(Other than quarries).			
Deulbera	Karamchand Thapar.	1 0 0 to 1 2 0	30-9-39	2½ years	

The difference in rates is due to the conditions of mining being different at each colliery. Tenders are invited through the public press and the lowest satisfactory tenders are accepted.

STATEMENT LAID ON THE TABLE.

PROGRESS OF RURAL DEVELOPMENT FROM JULY, 1936 TO DECEMBER, 1937.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary): Sir, I lay on the table a copy of the Report * on the progress of the schemes financed from the grants for rural development.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the following Bills which

* Circulated to all Honourable Members separately.

were passed by the Legislative Assembly at its meetings held on the 28th and the 31st March, 1938, namely :

- A Bill to provide for the temporary continuance of the existing protection conferred on the sugar industry in British India.
- A Bill to amend the law relating to salt as at present in force in Sind.
- A Bill to amend the Indian Coffee Cess Act, 1935, for a certain purpose.
- A Bill further to amend the Child Marriage Restraint Act, 1929.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL : Sir, three messages have been received from the Secretary of the Legislative Assembly.

First message :

“ In accordance with the provisions of rule 36(7) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the Bill further to amend the Workmen's Compensation Act, 1923, for certain purposes, were taken into consideration by the Legislative Assembly at its meeting held on Monday, the 28th March, 1938, and that the Legislative Assembly has agreed to the amendments ”.

Second message :

“ In accordance with rule 36(1) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the Bill to amend the Durgah Khawaja Sahab Act, 1936, were taken into consideration by the Legislative Assembly at its meeting held on Thursday, the 31st March, 1938, and that the Assembly has agreed to the amendments ”.

Third message :

“ I am directed to inform you that the Legislative Assembly has at its meeting held on Thursday, the 31st March, 1938, agreed, without any amendment, to the Bill to provide that all Cutchi Memons shall be governed in matters of succession and inheritance by the Muhammadan Law, which was passed by the Council of State on the 7th March, 1938 ”.

STANDING ADVISORY COMMITTEE FOR THE INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

THE HONOURABLE MR. S. N. ROY (Communications Secretary) : Sir, I move :

“ That this Council do proceed to elect, in such manner as the Honourable the President may direct, two non-official Members to serve on the Standing Advisory Committee for the Indian Posts and Telegraphs Department for the financial year 1938-39.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : With reference to the Motion which has just been adopted by the Council, I have to announce that nominations to the Committee will be received by the Secretary up to 11 A.M. on the 4th April and the date of election, if necessary, will be announced later.

TRADE DISPUTES (AMENDMENT) BILL.

THE HONOURABLE MR. A. G. CLOW (Labour Secretary) : Sir, I move :

“ That the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.”

I am confident that all Honourable Members will agree that the subject with which this Bill deals, trade disputes, is one of great importance. It is

[Mr. A. G. Clow.]

also one which has been attracting a good deal of attention lately. Unfortunately the last twelve months have seen a remarkable number of strikes. I think the number has been greater than in any previous corresponding period in India except 1920-21 when we were suffering from the aftermath of the war. It has certainly been very much greater—probably more than double as many strikes have occurred in the last year than occurred in any year since the Trade Disputes Act was passed in 1929. I hope this epidemic will prove to be due in part at least to causes which are temporary; but I suggest that the main need is a general improvement in industrial relation. Now the amount we can achieve by legislation to secure such an improvement is very limited, much more limited than some labour enthusiasts suppose. But I think Honourable Members will agree that we should do what we can to promote harmony in industry and to secure the parties and the community from the loss and hardship which is involved in stoppages of work. That was the object with which the original Act was framed, and the greater part of this Bill, clauses 2 to 9, represent amendments of detail in the original scheme without involving any change in its essential structure. These are for the most part explained in the Statement of Objects and Reasons and I need not do more than allude to them very briefly.

Clause 2, the first part of it, makes certain slight enlargements of the definition of public utility service and clause 7 makes amendments in the section, which contains the provisions relating to public utility services, and requires notices in the case of lock-outs and strikes. The object of the main amendment in clause 7 is to ensure that Provincial Governments get early information of possible stoppages so that they can consider what action is required on their part. Clauses 4, 5 and 6 make certain minor changes in the sections which govern the procedure of Boards and Courts. A somewhat more important change is done in the latter part of clause 2 and clause 3. At present the definition of "trade dispute" is limited to disputes between employers and workmen and disputes between workmen and workmen. It is only the former type of dispute that is covered by the conciliation machinery. What we are proposing to do here is to cover all three possible kinds of disputes, between employers and employed, between workmen and workmen and between employers and workmen and to extend the conciliation provisions to all three. That brings me to clauses 8 and 9. These make minor changes in the provisions relating to general strikes. If Honourable Members will refer to the Statement of Objects and Reasons they will see that the main section 16 is criticised there as having been "framed in terms which as experience has indicated, render it of little value for the protection of the community". I cannot claim that the amendments here being made go any large distance to remove that criticism, although they are minor improvements. But we propose to consult Provincial Governments on the question of whether we cannot do more to check or curtail strikes when methods of conciliation and enquiry are being pursued.

The remaining clause, clause 10, is of a different character, because it proposes to enlarge and supplement the scheme of conciliation provided for by the main Act. This change was suggested by the Whitley Commission and I might read a short passage from its report as it explains better than I can do the underlying object. After discussing the neglect of conciliation, they go on to say:

"It is in the earlier stages that assistance of the right kind can be most valuable. We do not suggest that the heavy artillery of the Trade Disputes Act should be used at

this stage ; we would repeat that it is far better to get the parties to a dispute to settle it themselves than to put forward a settlement for them and attempt, by invoking public opinion or otherwise, to give it force. There are frequent occasions when the tactful and experienced official can assist by bringing the parties together, or by putting before either party aspects of the other's case which may have been overlooked, or even by suggesting possible lines of compromise. India has tried to copy the less valuable part of the machinery employed in Great Britain whilst ignoring the most valuable part. There, less reliance is placed on *ad hoc* public enquiries of the kind contemplated by the Indian Trade Disputes Act than in the efforts of conciliation officers and others to bring the parties privately to agreement ”.

The Tribunals that we can at present appoint and Provincial Governments can appoint at present cannot really be established in the earlier stages of the dispute. They are thus compelled to start work when the parties have already ranged themselves into opposite camps and when conciliation is therefore extremely difficult. The Conciliation Officers for whom the Bill provides could by acting as the friends of both the parties and by mediating before any serious antagonism has been aroused prevent many disputes which would otherwise result in a rupture of industrial relations.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, you will perhaps permit me to offer my congratulations to the Honourable Mr. Clow on his appointment, even though temporarily, as a Member of the Governor General's Executive Council. The Honourable Mr. Clow is a very very earnest man. He is respected greatly for his sympathy with the working classes of this country and I am genuinely sorry that he should have promoted a Bill parts of which I have to criticise and which generally in its present form I cannot support.

Sir, I will enumerate the criticisms that I have to make against the Bill as briefly as I can. First of all, my criticism is that the Government have extended the list of industries which are hereafter to be considered as public utility services. If you look at clause 2 you will find that a sub-clause is to be added and the effect of that sub-clause (*ia*) would be to make inland steam vessel services or transport services, which the Local Government may by notification in the local official gazette declare to be public utility services for the purposes of this Act. Now, Sir, so far as these inland steam vessel services are concerned, they are private owned services. Why should they be regarded as public utility services ? The present position is that in a public utility service under the present Trade Disputes Act of 1929, it is an offence to go on strike without notice. The result of this extension will be that it will be an offence to go on strike without notice in the industries to which may be classed as public utility services, namely, the inland steam vessel services and the tramway services. Now, so far as these inland steam vessel services are concerned, they are privately owned and these services are not being used or being run only for public utility. They are being run mainly for private profit. And therefore I see no reason why inland steam vessel services should be brought within the scope of the definition of the Bill.

Then, take again the question of the tramway services. How far are you going to extend this conception of the public utility services ? If you have the tramway services, then why not have the cabs and bullock carts and the ekkas which are more often used by the poor people than trams in certain parts of the country ? In Cawnpore you have trams but I think trams have not replaced ekkas. Then why not extend the definition to ekkas ? Why not extend it to bullock carts also ? Where are you going to draw the line ?

THE HONOURABLE THE PRESIDENT : Tramways are being used by poor people.

THE HONOURABLE Mr. P. N. SAPRU : Yes, Sir, but ekkas are more often used by poor men than tramways. I can understand the case of a service which is run by the State, which is managed by the State, which is controlled by the State, being regarded as a public utility service.

THE HONOURABLE THE PRESIDENT : Are you aware that almost all the electric supply companies in India are run by private companies ?

THE HONOURABLE SIR DAVID DEVADOSS : Well, in Madras, the electric supply companies are private companies, they are not owned by the State, and yet they are public utility concerns.

THE HONOURABLE Mr. P. N. SAPRU : Sir, it all depends upon the measure of control we have over a particular service and also it depends on the nature of the service. In the case of a tramway there are alternative methods of transport available.

THE HONOURABLE SIR DAVID DEVADOSS : No. In Madras people are likely to be stranded if there is a strike.

THE HONOURABLE Mr. P. N. SAPRU : People are always stranded. If the Honourable Sir David Devadoss had his way he would probably allow no strikes at all. Humanity for certain people only mean humanity for the vested interests, or the propertied classes. Only rarely, Sir, do we have the poor people in mind. Therefore, there is a basic difference, a difference which cannot be bridged, there is a difference of ideology between my point of view and the point of view of the Honourable Sir David Devadoss, and I think, Sir, it will serve no useful purpose if I were to go into these basic questions. But I think, Sir, the point remains that tramways are not exactly like railway trains and therefore I see no reason why there should be an extension of the definition of public utility services which is to be found in the old Trades Disputes Act. The result of this extension, Sir, will be that a strike without notice if it comes within section 16, will be an illegal strike. Sir, in England even railways are not treated as public utility services. Why should there be this extension here ?

I come now, Sir, to the question of illegal strikes. Now, Sir, the original Act provided that

“ 16. (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 ”.

Now, Sir, I do not want to go into the question whether these lightning strikes should be declared illegal under any circumstances at all. I do not want to go into that question. I find that the principle has been settled in the Trade Disputes Act and I am not going to question the principle of the Trade Disputes Act of 1929. But the point is that there have been certain changes made in the Trade Disputes Act of 1929 and the result of those changes will

be to make the position of the worker more difficult. Now, Sir, the word "prolonged" has been taken out. The position now is that as the clause stands it would rule out sympathetic strikes altogether. It would rule out political strikes altogether. If the intention of the strike is to coerce Government or do something which will cause hardship to the community, then the strike is illegal. That is the present position so far as the law is concerned. But in order that the strike might be illegal it has to satisfy three qualifications. It must be severe, it must be general and it must be prolonged. Well, if you take out the word "prolonged" it will mean this that, if a strike lasts even for one day, it can be made illegal. Sir, the case against the measure is that in the old Act the words were "severe, general and prolonged" and if one word is taken, then you will have necessarily to place a more narrow interpretation upon the Statute. If there is a strike even for a single day, according to the amended section the strike would be an illegal one. That is going too far.

THE HONOURABLE THE PRESIDENT : One day's stoppage might cause thousands of rupees loss.

THE HONOURABLE MR. P. N. SAPRU : That is an argument which capitalists always employ, if I may say so with respect, against all strikes. You have to look at the question from a humanitarian point of view, not merely from the point of view of profits. It may not be possible for us to do away with the capitalist system. I do not say that it is possible for us to do away with it. I do not ask the House to go as far as that. But it is certainly possible for us to have a humanised capitalism. It is certainly possible for us to have a reformed capitalism under which it will be possible for the under-dog also to have fair play. It becomes necessary sometimes for a strike to be a lightning strike in order that it may succeed. If you make a lightning strike so difficult, then you are not promoting the cause of industrial peace. So, I fear that the elimination of the word "prolonged" will worsen the position of the workers. It may be said that the British Act does not contain the words "severe, general and prolonged". But the position here is that these words were in the old Act, and if you take away this particular word "prolonged" from the Statute, then the courts are bound to construe that the word "prolonged" had some meaning and thus you narrow the interpretation. Assuming, Sir, that political strikes are wrong I am not going to argue that political strikes are right; I will not answer that question here at all whether political strikes are right or not; assuming, Sir, that political strikes are wrong why should sympathetic strikes intended to influence Government for securing beneficent legislation like for example health insurance or the appointment of a court of enquiry be ruled out? Supposing we have some general scheme of health insurance extended to one industry. Then why should a strike by some other industry in order that the benefit of this health insurance scheme might be extended to it also be ruled out? Sir, the clause as it stands is not limited to making political strikes illegal. And, Sir, why should political strikes be illegal in the case of industry only? If a strike is illegal in industry, it ought to be illegal in other spheres of life also. You know that you have hartals some times in this country; shop-keepers close their shops and great hardship is inflicted upon the public when shops are closed. If it is not a penal offence for a shop-keeper to obey the orders of a Congress dictator—we have not Congress dictators now; we have Congress premiers and Congress ministers now—but if it is not illegal for a shop-keeper to obey the dictates or the will of a Congress dictator then why should it be illegal for a poor industrial worker

[Mr. P. N. Sapru.]

to go on sympathetic strike with those with whom he has natural affinities ? Sir, reference was made by the Honourable Mr. Clow to the existing position in this country with regard to industries. We have been having an epidemic of strikes. I deprecate that very much. I think a strike is a weapon which ought to be used with great restraint. It is not a weapon to be used lightly. But, Sir, you are not going to settle these industrial problems by repressive legislation of either a severe character or a mild character. You are going to establish industrial peace by promoting the method of conciliation between employers and employees. If our employers will adopt a more humane attitude towards labour, if they will look upon labour not as a mere commodity to be bought for a certain price but as human material which has to be respected, I am sure that the relations between employers and employees will improve. I am sure, Sir, that the so-called agitators will not have fertile soil then among the workers. The so-called agitators have fertile soil among the workers because the workers have genuine grievances today. Sir, our industrialists are always asking for protection and more protection, and when they ask for protection and more protection, they never think of the consumer or the worker. I have never been an opponent of this discriminating protection myself. But what I do say is this, that if you give protection to your capitalists, you must give protection to your workers also. Personally, I stand for what I would call the new protection, not the protection which my Bombay capitalist friends or my Ahmedabad capitalist friends have in mind, but a new protection which would protect the worker as well as give some security to the capitalists who want to invest money in business. Sir, you cannot get industrial peace by denying the workers certain social services. Honestly, I cannot understand why a civil wrong would be made a criminal offence. If a strike takes place, there has been a breach of contract and there is a civil remedy open to our capitalist. They can invoke the machinery of the law courts in civil cases. Why must they have the machinery of the criminal law also to assist them ? What happens when a strike takes place ?

THE HONOURABLE MR. G. S. MOTILAL : On a point of order, Sir. The Honourable Member is dealing with the very principle of the original Bill. This is an amending Bill.

THE HONOURABLE MR. P. N. SAPRU : These are general observations which arise out of the Bill.

THE HONOURABLE THE PRESIDENT : Please proceed.

THE HONOURABLE MR. P. N. SAPRU : What happens if there is a strike ? The Congress Governments do not hesitate to use section 144 for keeping the peace. Section 144 has been more used by Congress Governments in some cases—I do not say wrongly—but I think they were great critics of section 144, and they have discovered virtues in section 144 since they came into office. (*An Honourable Member*: “They have learnt.”) They may have. I do not know. But what I was saying was this, that if you use section 144 against your workers, you must also use section 144 against your capitalists. And think very often these strikes are the result of bad handling of their employees by the capitalists.

THE HONOURABLE MR. SHANTIDAS ASKURAN (Bombay : Non-Muhammadan) : Get some experience !

THE HONOURABLE MR. P. N. SAPRU : Well, I have not the experience which my friend Mr. Askaran has as an employer of labour, but I am in touch with the labour world and I know how they feel and I think I can feel as they feel at all events on certain occasions and at certain times. Therefore, I would urge that this question ought not to be looked at only from the point of view of a certain class. It ought to be looked at from the point of view of the community as a whole. The machinery of the Trade Disputes Act has not been very much used. I think it has only been used on three occasions. We have not enough experience of the working of the Trade Disputes Act and therefore I do not see that there is any particular reason why there should be any change in the old Trade Disputes Act of 1929. There is a part of the Act which certainly attracts me, and that is the part about conciliation agencies. But as I say I cannot take an isolated view of the Act. There are parts of the Act with which I find myself in agreement and there are parts of the Act with which I do not find myself in agreement. The attitude for me to take is not to support the Bill in its present form. Of course I know the Bill has the support of the Party of which my distinguished friend the Honourable Mr. Ramadas Pantulu is the leader. I should have thought that that Party which stands for mass contact, which is so much—

THE HONOURABLE THE PRESIDENT : Do not make any reflection on other Parties.

THE HONOURABLE MR. P. N. SAPRU : No, Sir, it is not a rival Party. We both belong to the Opposition here in this House ; so I am making a reflection, if it is a reflection at all, on a Party which generally co-operates with us, and what I was going to say was that I was rather sorry that the Congress Party should have departed from the idealistic programme which it has placed before itself and blessed this Bill.

Sir, with these words, I indicate my dissent from certain parts of the Bill. I am not prepared to support the Bill as it is. That is all I have to say.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, this Bill has come to us after nearly four years since a Bill was to extend the original Act of 1929 was brought before this House. At that time the Government introduced what I might call an extending Bill, by means of which they made the Act permanent. On our query the then Member for Labour promised that he would introduce a measure as soon as he had consulted public opinion and finished with other labour legislations. I may say that the Labour Department during recent years has done immense service to the cause of labour. They have introduced measures for betterment of the conditions of labour, and as such they can really look back with pride on their achievement. But this Bill is not an unmixed blessing. It is as imperfect as we human beings are. Perfection and idealism are rather difficult to attain, and my Honourable friend Mr. Clow in the other House made it clear that in introducing this Bill he had looked at the question from the point of view of both capital and labour. It is neither in the interests of labour nor entirely in the interests of capital.

THE HONOURABLE THE PRESIDENT : His words do not mean that.

THE HONOURABLE MR. HOSSAIN IMAM : But unconsciously I may say there is a little more favouritism for capital than for labour. (*An Honourable Member :* "Where is that"?) The lesser stringency as far as section 16 is concerned.

[Mr. Hossain Imam.]

Mr. President, the major changes in this Bill are two. The first is about section 16 and the second is the addition of section 18A. In those respects we have to see what are the changes. The original Bill contained a provision which apparently was more favourable to labour than the compromise arrived at in the Select Committee of the other House. How it happened we do not know, because the proceedings of the Select Committee are not made public. We only have the report which does not give us any definite information on that point. The Honourable Mr. Clow made it clear in his speech in the other place that he is not giving up the idea underlying clause 8 as originally drafted. He has only deferred it for consulting Provincial Governments and other public opinions. That, Sir, is in my opinion a guarantee that justice and equity will be done. Although this is an imperfect measure it promises that in future it may be improved. My Honourable colleague Mr. Sapru was rather critical of the extension of the scope of the Act to include public utilities. Perhaps I may clear the air by stating that a strike in a public utility service has not been declared illegal. They are not under the mischief of clause 16. They come under clause 15 whereby the public utility worker is required to give us notice. The only thing we debar a public utility worker from doing is to declare a lightning strike. Now we must give precedence to the interests of the masses and not to the classes. When workers and the general public clash it is natural that the general public interests should prevail rather than the interests of the class to which the labour must belong. The labour in any one industry does not form a majority of the population, and the majority of the population suffer if a public utility service is stopped without notice. The idea underlying the requirement of notice is that there should be a fair bargain and an opportunity for conciliation. If there is a lightning strike it does not give an opportunity for conciliation to take place. It is like a man holding a pistol at my head and asking me to do this or that. I therefore think that in the prohibition of lightning strikes in public utilities we may concede that the Government is not in the wrong. Then there is another safeguard which my Honourable friend has overlooked, namely, that our own Provincial Governments come into the picture. It is not the old bureaucratic Government which will declare a tramway or a steamship company to be a public utility service. It is the present reformed Governments, i.e., the Congress Governments. Is my Honourable friend prepared to trust

12 Noon.

them? Perhaps he has looked apprehensively at the changed attitude of the Congress, which has changed much, and on account of the weight of responsibility is no longer as irresponsible as it used to be. I find that they have learnt their lesson well and they can catch things to the former bureaucratic Government here. It is not very many days since I heard even shooting of the masses being approved by Congress Ministers.

THE HONOURABLE SIR DAVID DEVADOSS: How is all this relevant?

THE HONOURABLE THE PRESIDENT: Wholly irrelevant!

THE HONOURABLE MR. HOSSAIN IMAM: Because the authority which will declare a public utility service is the Congress in seven provinces therefore whether it is trustworthy or not from the public point of view can be discussed. I do not say that they have done wrong. They were wrong before when they were condemning all the actions of the former Governments. They have learnt the lesson now that they are occupying office. They used to do and say things formerly which used to be irrational, they are perhaps actuated

by the requirements of the situation, they have learnt and I hope they will learn more as time passes.

Now, Sir, the Honourable Mr. Clow referred to section 18A, and I wish to endorse that the introduction of section 18A is a very welcome change—an improvement on the old Act. Much will depend on the personnel selected by the Central and Provincial Governments to occupy that post. If these posts are to be merely added to the list of preferments in the hands of the Governments it will fail, but if selection is made of persons who are really suitable to occupy these posts it will prove an immense success. After all prevention is always better than cure, and the machinery and the entire success of this provision will depend on the personnel appointed to these posts. I hope that in making these appointments the Central and the Provincial authorities will make suitability their one and only criterion and no political consideration or service will be taken into account. It is feared that it might degenerate into jobbery as it did in bureaucratic times.

Sir, the Bill, as I said, is not much of an improvement on the original Act. Excepting clause 10 I do not find that other clauses are much favourable to the labour view-point. Nevertheless in this House as it is at present constituted, it is impossible for the Opposition to make any improvement in the legislation before the House. It was primarily the duty of the Lower House which has an overwhelming majority of Opposition Parties to make whatever improvement it thought proper to make in the interests of labour and the general public. But our experience of the last eight months has been that more often than not the chief Opposition and the Government think alike, because they both form the Government but in different spheres; and therefore we on our part can do nothing but express our dissent from such measures which are not in the interests of labour.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, I had no mind to take part in this debate, but some remarks of my Honourable friend Mr. Sapru induced me to have my say on this measure. Sir, my Honourable friend Mr. Sapru is a great politician and I hope he would look at this measure from a politician's point of view, rather from the point of view of a particular class of Indians. Sir, the Government said—in fact our Honourable colleague Mr. Clow said in the other House—that the Bill is not perfect. It is not a momentous one, but he has tried according to him to keep the scales even between the two contending parties.

THE HONOURABLE MR. HOSSAIN IMAM : A little weighted !

THE HONOURABLE MR. V. V. KALIKAR : My Honourable friend Mr. Hossain Imam says “ a little weighted ”. But from the Minutes of Dissent he will find that the capitalists also are not in any way pleased with this Bill. They say that the original Bill was much better and the Bill is robbed of many things which were useful for preventing strikes. So I think the Bill is more in the interests of the community as a whole than in the interests of a particular class of the community. My Honourable friend Mr. Sapru says that the public utility services should not be recognised as such unless they are owned by the State.

THE HONOURABLE MR. P. N. SAPRU : Controlled.

THE HONOURABLE MR. V. V. KALIKAR : Unless they are controlled or owned by the State. Sir, we may have our differences on that point, but

[Mr. V. V. Kalikar.]

the question is whether these services cater to the needs of the public or not? Now, take tramway services or electric companies in India. Does my friend want that there should be no notice given by the worker to the company before he goes on strike? What is the dangerous principle there? As my Honourable friend Mr. Hossain Imam stated just now, it is just fair that the workers should give notice to the company, so that they may arrange for seeing that the public is not in any way inconvenienced? Sir, I am speaking neither as a capitalist nor as a labourer, but as a third party and I think I can take a detached view of the measure before the House. Sir, I have some knowledge of the strikes that happened in my city, Nagpur. I do not want to cast any reflections on the leaders of the labour party there, but I know it for certain that there were many strikes which were really not in the interests of the labourers but for imaginary grievances. I could cite examples of some strikes where inefficient workers were dismissed by the management and labourers went on strike. I am very glad to find that labour leaders have admitted that the labourers do suffer much in these strikes, but even the industries also suffer to a great extent. I must state, Sir, that you can not compare India with England in these matters. In England industries are very strong, labour organisation is equally stronger. Here, in India, Sir, which is practically an agricultural country and in which we have to maintain these nascent industries, against the onslaught of foreign competition and foreign countries we as legislators must not put undue restrictions on the industry as a whole in India.

Sir, my friend the Honourable Mr. Sapru said that capitalists have gained much. If we were to turn and read the labour legislation that has been passed in this House and by the Assembly during the last five years, we as third parties would come to the conclusion that the Government of India is taking a real interest in, is giving more importance to, the complaints and to the grievances of labour than of capital. So, Sir, my point is, that we as legislators should not look to this measure from the angle of vision of a capitalist or a labourer, but we should take into consideration the measures that have been incorporated in the Bill and see whether they are in the interests of the community as a whole or not.

Sir, I am certainly pleased to find that a new clause 10 (18A) has been added to the Bill. It is better, Sir, to prevent strikes when there are signs of its developing than to find measures to settle those strikes when the strikes are in existence. Sir, I hope this Conciliation Officer would do much by way of mediation, by way of inducing the contending parties not to go on strike and also try his level best to settle the disputes that may arise in future and that will cause loss not only to the public but to the contending parties. So, Sir, this special measure which has been incorporated in this Bill will, I hope to a great extent assist us in establishing industrial peace in this country.

Sir, then about the dropping of the original section and retaining the old section 16, much has been said and much was said in the other House. I find, Sir, on reading the speech of the Honourable Mr. Clow which he delivered in the other House that he has not yet given up the idea. He says, Sir, that he wants to consult Provincial Governments and public opinion on that matter. Now, Sir, in all those 11 provinces we have got responsible Government and therefore, Sir, I would request the labour leaders and my friends like the Honourable Mr. Sapru and others to wait and to have full confidence in the Provincial Governments and then after the Provincial Governments

have decided their policy in the matter, then to bring pressure on the Government of India. But then, Sir, I must submit that, though we may help labourers to remedy their just grievances, we cannot be a party to help them in those measures where they not only bring themselves into difficulty, and the industries too, but they inflict very great hardships on the community as a whole. I therefore, Sir, have great pleasure in supporting the measure so ably moved by my Honourable friend Mr. Clow.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : Sir, I had no idea of speaking on this Bill as I thought it was one which was favourable to labour. Mr. Clow, Sir, whose preferment we are all pleased to hear of, has made a special study of labour questions and during the last few years he and his chief, Sir Frank Noyce, have done much for labour. The observations of the Honourable Mr. Sapru, Sir, seem to show there should be no legislation which would benefit the country. His idea is that if there is any legislation it ought to benefit a certain class, that is the class he is interested in, Labour. Sir, legislation ought to be for the greatest benefit of the greatest number. I will confine myself only to one or two of his observations. Now, as regards tramways, Sir, as you know, in Madras we have got a tramways system which is run by a private company. We have got an electric supply company which is also a private company. We have got a telephone company which is also run by a private company; and we have in the Madras Presidency a number of electric supply corporations or companies which are run by private companies. Now, Sir, if there is a sudden strike, we will say, on the tramways in Madras; there is an apprehended strike and there is some talk of compromise and so on, and suppose one fine morning we people find there are no trams. I don't know if Honourable Members are aware that Madras is a city of distances. Well, people from the south, we will say Mylapore or Adyar, have to go to George Town for their work,—clerks, peons, duffadars, and so on. They have to be at their offices at 10 o'clock. What about them, Sir? The Honourable Mr. Sapru talked about labour people. What about these people? One morning they get up and find there are no trams. How are they to get to George Town which is six miles distant. Then if there is a rickshaw or a jutka or any other form of conveyance, as you know very well that day they will put up their fares and want four or five rupees for the trip. Are the poor people to be victimised like that because one or two people are dismissed by the tramways? Or suppose one or two undesirable men are dismissed by the electric supply corporation and there is a sudden strike. We shall have no lights. The Municipality will have no lights and all the machinery will have to be stopped. Therefore, Sir, I fail to see how the extension of this principle to tramways and boat services will in any way prejudicially affect labour? I think, Sir, clause 10 is really a beneficent measure. You can always consider the grievances of labour and try to bring about peace. Instead of that, if labour is allowed to go on a sudden strike, the whole country will be plunged in difficulties, not merely in darkness. Supposing, we will say, a company which supplies water has a strike in it, if the water is cut off what will the people do? If they draw water from wells there will be cholera next day. Therefore, Sir, I submit that, so far as the provisions of this Bill are concerned, they are very salutary, if not beneficent to the workmen. I really congratulate the Honourable Mr. Clow, who has made a special study of labour, upon producing this piece of legislation. No doubt it cannot be perfect. Nothing is perfect in this world, and Mr. Clow himself is not satisfied with the Bill. He does not say that it is perfect. But this is a piece of legislation which so far as it goes is a very

[Sir David Devadoss.]

beneficent piece of legislation and I do not think that any of us should say anything against it.

With these words, Sir, I have much pleasure in supporting the measure.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise to support the Motion made by the Honourable Mr. Clow. I shall be very brief. By way of preface I would like to say that the insinuation made by some Members that the Congress Party is not interested in protecting labour, as much as any other party, is wrong. We are as jealous of the interests of labour as any other Party in this House.

THE HONOURABLE SIR A. P. PATRO: Only in theory and in words!

THE HONOURABLE MR. RAMADAS PANTULU: Absolutely in practice. We are not men for words. But in doing so, we will not take sides either with labour or with capital. We realise that the interests of both capital and labour are subordinate to the interests of the general public. As a co-operator I have always listened to disputes between capital and labour in regard to economic problems with a certain amount of disgust because, between them, they have forgotten the consumer who is the person most concerned. We are out to harmonise the interests of the consumer, the capital and labour and an injustice done to any one of these will certainly be protested against by the Congress Party. My friends by this time must be aware of the fact that the Congress is not only expressing its lip sympathy with labour but is actually working out a scheme to harmonise the various interests and to organise labour. We are trying to change the present basis of trade unionism, namely, class war or class struggle to class co-operation and class co-ordination. It will result in a great triumph for the Congress and my friends will very soon see that the labour problems are not only tackled but solved very effectively by the Congress in the near future. With these introductory words, Sir, I proceed to say a few words on the provisions of this Bill.

Personally I do not like any addition to the list of public utility services in an amending measure of this sort and I would have supported my friend the Honourable Mr. Sapru in objecting to the inclusion of water transport and tramways among public utility services. Unless there are no other means of transport—other means of locomotion—labour should not be deprived of its right to strike and cause inconvenience to the public. There is a great principle involved in it and I am in hearty sympathy with the main object of my Honourable friend Mr. Sapru. But what makes me support the clause as it stands is that these two services—the water transport and tramways—are not declared public utility services by the Bill itself. They will not be public utility services unless Provincial Governments so declare them. What the Bill says is that water transport and the tramway service will be public utility services if the Provincial Government by notification in the official gazette declare such services or any one of them as the case may be, to be a public utility service for the purposes of this Act. Therefore, the entire responsibility is thrown on the Provincial Governments, and I certainly trust the Provincial Governments, under the autonomous scheme, to discharge their duties well and truly by the people. As the Government of India do not take any responsibility in this behalf and cast the whole responsibility on the Provincial Governments, I will support the clause as it is.

With regard to tramways, my Honourable friend Sir David Devadoss said that in Madras it is a very important means of transport. But I very

much doubt whether the Madras Government will ever declare the tramway service at any time to be a public utility service, because, as my Honourable friend Mr. Sapru said, there is not much difference between a bullock cart and the tramway in Madras. In matters of speed, they compare not unfavourably with each other. I know that my Honourable friend Sir Ramunni Menon can do the distance between Vepery and George Town much quicker than the tramway itself. I think it is a matter for consideration in each province.

I will refer only to two other provisions which are controversial, namely, amendments to the old sections 15 and 16. I really do not see why the amendments should be objected to. We must first of all remember that section 15 of the Act comes into operation only if the strike is in breach of a contract and if it is without notice. Two conditions are required. If a man can strike without violating a contract, section 15 does not affect him. If he gives 15 days' notice, then also section 15 does not affect him. Therefore, why should we object to such a safeguard against strikes without notice? As I have already said, public interests and the interests of the community must predominate over the interests of private individuals. They may have a right to have their grievances redressed but they must not do so to the inconvenience of the general community. Therefore, I think that the amendment to section 15 does not give rise to any legitimate complaint that labour is badly treated.

As regards section 16, I wish Government had not removed the word "prolonged". The removal of that word no doubt may lead to hardship in some cases. The word "prolonged", as pointed out elsewhere and also in the decisions of some courts, is not however a very precise legal word. What is "prolonged" is a matter of opinion. I am told that the Bombay High Court actually held that a strike which continued for four months could not be said to be "prolonged" within the meaning of this Act. If four months is not prolonged, I do not know what is "prolonged". Anyhow, the word is likely to give more trouble in interpretation. The words "general and severe" are, in my opinion, enough to protect the interests of labour. Therefore, clause 8, as it stands, relating to the amendment of section 16, is also free from any objection.

Sir, the new section 18A, which is introduced by this Bill is, I think, a very helpful provision. Hitherto, all action in regard to strikes has been more or less attempted after the strike had begun. There has been no provision for preventive action. This section gives now for the first time a very good machinery for preventing strikes before they begin. If a strike is once commenced, the feelings of both parties are exasperated, and a settlement between them becomes much more difficult. One party has already struck and the other party is smarting under a sense of injustice and grievance. If conciliation started before a strike actually has commenced, I think there are better chances of success.

One word more and I have done. I have heard a great deal about the necessity of protecting the interests of labour. I quite agree. But I would like to urge upon my friends who are interested in labour here to form a Labour Party within the Councils. Government has given some representation to labour in the various Legislatures under the new constitution and under the old constitution, but I have not found any organised labour parties, as such, in any of the Councils. They will be of great help to labour in this country, if formed. Reference has been made to the fact that in England, tramways, buses and even railways are not public utility services. It is true.

[Mr. Ramadas Pantulu.

But there are two aspects of the question to be considered. The difference between England and India in this matter is this. First of all, in England, labour is well organised. Trade Unions know their duty and it is more unlikely that irresponsible leaders promote strikes in England than is the case in India today. The other difference is that tribunals and courts there have a definite background in deciding trade disputes. They are long accustomed to trade disputes and the judges can be expected to do justice much better in England between labour and capital. Therefore, we need not invite a comparison between England and India in this matter. The labour organisations have a party in the House of Commons to protect labour interests in matters of legislation also. I would ask the labour leaders to organise a party in the Central Legislature. That will have a greater effect. Instead of only Mr. Sapru here and Mr. Ranga there, let there be a Labour Party.

THE HONOURABLE SIR A. P. PATRO (Madras : Nominated Non-Official) : Sir, I am not a little surprised at the observation made by the last speaker in regard to the formation of a Labour Party in the Legislatures. I thought and have always understood that the Congress represents the whole mass and all classes of people.

THE HONOURABLE THE PRESIDENT : Why do you take it so seriously ? (Laughter.)

THE HONOURABLE SIR A. P. PATRO : My Honourable friend is the Leader of the Congress Group in this House. As Congress represents the whole country including Labour, I thought the Congress Group also represents Labour and there is no need for any separate Labour Party.

THE HONOURABLE MR. RAMADAS PANTULU : Represents the nation.

THE HONOURABLE SIR A. P. PATRO : The nation is as vague as himself and his speech in this House and as vague as the remarks we have had from him this morning ! Therefore, I need not say what a nation means according to him and how he represents that nation !

Then, again, I am rather struck by the remarks of my Honourable friend Sir David Devadoss, who said the Honourable Mr. Sapru was talking of legislation more in favour of labour than for the benefit of the country. I am afraid it is the other way about. Mr. Sapru has been labouring all the time the point that legislation should be equitable and just to both parties. He was not supporting labour as against capital, but he said that capital should so conduct itself that it should not dominate the interests of the country. I do not think there was anything on which we could question the validity of his remarks, as I understood him.

Then, Sir,—

THE HONOURABLE MR. G. S. MOTILAL : Are you opposing ?

THE HONOURABLE SIR A. P. PATRO : That is the voice of capitalism ! I am not prepared to answer that at present. It is shown that the Bill includes tramways in public utilities and if there is a strike it will cause great harm, and so on. But the real significance of this Bill and its scope is very limited.

There are only two prominent facts in this Bill. The first is that inland waterways and tramways are brought into line with other services and under this Bill strikers will have to give notice. Without notice there can be no strike; that is the important point. So that there may be no hardship to the public. It is a compromise between labour and capital. Labour should not take advantage of its position and inconvenience the public and dislocate services without proper notice. So tramways have been included so that public convenience may be protected.

Then again, Sir, it is said that the Congress have always been on the side of Labour. I do not want to enter into the ethics not the principles of it on this occasion because they are not perhaps very relevant, but all that I would say is that in this matter there is no question of only labour. It is a sort of protection to labour, that they should not be victimised by the blandishments and misrepresentations of certain classes of people who were notorious in creating trouble and who now sit as judges over the so-called wrongdoers. Owing to their activities, capitalists of the class of my friend here suffered very much. Therefore I say that in this matter of the tramways there is absolutely no difficulty whatever in including them in this definition. All that it means is that they will have to give notice of strike.

The other matter of importance in this Bill is the appointment of Conciliation Officers. It is a very desirable and necessary thing and I cannot see any difficulty at all in the working of it. The matter is also left entirely to the discretion of the Provincial Governments. It is not the Central Government which is going to declare that tramways should be brought into the purview of this Bill. It is the Congress Governments in the five provinces who will decide whether or not they should bring the tramways within the purview of this Bill. They will judge the conditions, the circumstances existing at the time, the relations between employers and employees and whether there is reason for utilising this provision or not. It is purely optional and discretionary and I am sure the Provincial Governments will exercise their good discretion and judgment in the matter.

And in regard to Conciliation Officers I hope there will be no amendment in the sense of which notice has been given. That amendment is quite unnecessary. The appointment of Conciliation Officers by the Central or Provincial Governments for looking into these matters is a very desirable thing and it will make for a timely prevention of any such strike. The economic relation between employers and employees is a matter which Governments have to consider with great care. And not only the Government, the public are equally concerned in the matter. Therefore these Conciliation Officers will be able to treat any confidential matter communicated to them with the utmost care and they cannot violate such confidences without the previous consent of the authorities. Therefore Conciliation Officers are very necessary and this Bill is in the right direction to prevent strikes and I support the principles of the Bill.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Mr. President, it will be admitted on all hands that this is a controversial Bill and that it deals with a matter of some importance. It affects the freedom of the workers to go on strike, and this is a subject on which, as my Honourable friend Mr. Clow knows, strong feelings are roused not merely in this Legislature but also in the country. It was necessary therefore that he should enlighten us with regard to the genesis of the Bill, so that we might know what was that proved necessity which compelled

[Pandit Hirday Nath Kunzru.]

Government to bring forward a Bill amending the Trade Disputes Act, 1929. Unfortunately my Honourable friend referred very briefly to this important point. He said in justification of his Bill that there had been more strikes in the last twelve months than in any year after the war and that it was necessary to save the community from the economic loss caused by stoppages of work. He also referred us to the notes on certain clauses of the Bill. The note on clauses 8, 9 and 10 of the Bill says :

“ The present section 16 is framed in terms which, as experience has indicated, render it of little value for the protection of the community ”.

Now, Sir, I shall examine all these three reasons presently. I shall take up first the arguments advanced by the Honourable Mr. Clow. If his arguments are valid, then the purpose of the Legislature in passing the Trade Disputes Act of 1929 was to take steps to bring about industrial peace generally. The general language of the Preamble to the Act may justify such a claim, but those who took part in the discussion of the clauses of the Act in the other House or have followed the proceedings in that connection will bear me out when I say that the Trade Disputes Act was meant to deal not with strikes generally but with general strikes the object of which was to paralyse Government. England had been faced with such a strike in 1926, and consequently changed its law in such a manner as to empower Government to declare a general strike resorted to for political purposes illegal. I was a member of the Select Committee that dealt with the Bill which resulted in the Act of 1929 and I well remember that both Sir Bhupendra Mitra and Mr. A. C. MacWatters took pains to assure the House that the Bill was meant to deal not with ordinary strikes but with a grave and emergent situation.

THE HONOURABLE MR. A. G. CLOW : Not the Bill surely ; the section ?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Sir, my Honourable friend now draws a distinction between sections 15 and 16 of the Bill and the Bill generally. You take these two clauses out of the Bill. What is there left in it I would like to know. Would the Bill have been enacted but for these clauses ?

THE HONOURABLE MR. A. G. CLOW : Certainly.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : If these two clauses had been fundamentally altered, would the Government have proceeded with the Bill ? I can say with some confidence that the Bill would have been dropped in such a case. It is no use therefore my Honourable friend taking shelter merely behind the general language of the Preamble ignoring sections 15 and 16 of the Act of 1929 and forgetting the assurances given by the representatives of Government when the Act in question was passed. I cannot, Sir, for a moment accept the Honourable Mr. Clow's interpretation and deal with the Act of 1929 as if it were meant to deal with strikes generally. That is my first objection to the position taken up by my Honourable friend over there. There may have been numerous strikes recently, but the purpose of the Trade Disputes Act of 1929 was to intervene or rather to put the State in a position to make its power felt only when public utility services were concerned and when industrial strikes were resorted to in order to paralyse the machinery of Government.

I shall now, Sir, deal with the arguments embodied in the note on clauses 8, 9 and 10 of the Bill. It has been stated there that experience had shown that section 16 was of little value for the protection of the community. That is a point of great importance. Did my Honourable friend Mr. Clow say one word with regard to it? Did he tell us what were those cases in which the Act of 1929 was found useless? He has not enlightened us on this subject. We are therefore left to indulge in conjectures. Perhaps then, Sir, if I might make a conjecture, Government want to amend the Trade Disputes Act because the prosecution launched by them against certain strikers in the strike which occurred in 1934 in Bombay failed. Is that a valid reason for modifying the Act? My Honourable friend should have shown, if that was the case which he had in mind, that the strike was meant to paralyse the Government and to bring pressure to bear on the authorities to concede unreasonable demands. He has done nothing of the kind. He has not even told us that the Government of Bombay asked for the amendment of the Act. I shall assume, however, that the Government of Bombay asked in 1934 that steps should be taken to amend the Trade Disputes Act of 1929. The character of the Local Government has changed since then. The amendment of the Act was undertaken not in 1934 but four years later. Have Government consulted the present Government of Bombay and are they in a position to tell us that the Bombay Government as now constituted are in favour of the Bill brought forward by Government? Unless this is done, I contend, Sir, that no case has been made out for the Bill brought forward by the Honourable Mr. Clow.

There is, Sir, another important fact which I should like the House to bear in mind in this connection. The Bill as introduced in the Legislative Assembly recognised that workers too might have grievances. The note on clauses 8, 9 and 10 makes that perfectly clear. It is stated there :

" It is important that any measures which are necessary to protect the public against the serious injury that may be involved in a big dispute should be taken. But it has also to be recognised that those taking direct part in a dispute of this character may have genuine grievances ".

This Bill, however, does not recognise that point at all. It looks upon labourers merely as mischief-makers; it does not recognise that they may have grievances of their own which may call aloud for remedy. The original Bill embodied a clause empowering Government when prohibiting a strike to appoint a court of enquiry or a board of conciliation to deal with the dispute between the employers and the workmen. The Bill as passed by the Legislative Assembly does not contain the clause in the Bill as introduced to which I have just referred. Consequently, while formerly Government could in principle have claimed that their Bill protected the interests both of the employer and the employed they can no longer put forward such a claim. This measure is entirely one-sided. And as they have not shown how the present Act, however defective it may be in theory, has been found ineffective in practice, we as practical men will not be justified in lending our support to the measure before us.

Sir, while criticising those clauses of the Bill which seek to enlarge the definition of public utility services and to widen the category of illegal strikes, I welcome that part of the Bill which deals with the appointment of a Conciliation Officer. I am sure everyone will welcome this feature of the Bill. Government so far had the power to intervene only after the mischief had occurred. Now, in pursuance of the recommendation made by the Whitley Commission, they are taking steps to create an atmosphere for the prevention of a rupture. Now this in my opinion being the most important part of the Bill we have to see

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whether the other clauses of the Bill will promote the object that this part has in view. If you want to give the Conciliation Officer a chance, it is necessary that he should be able to start his work in a friendly atmosphere. But if you make the appointment of the Conciliation Officer part of a Bill which will only irritate one of the parties engaged in the carrying on of industries, then you will be greatly hampering him in the discharge of his duties. Besides the Act, even with the amendments now put forward by my Honourable friend Mr. Clow may not be sufficient for the purposes that Government have in view. They may not even then be able to get from the courts the verdict they desire. The Bill will in that case have proved both futile and irritating. Now, if my Honourable friend Mr. Clow cannot enjoy a happy and tranquil leisure hour, when he has one, and finds that time hangs heavy on his hands, let him employ it in hatching better measures than the one that he has brought forward now. And for the present let him confine the Bill only to that part of it which deals with the appointment of a Conciliation Officer. It is only when this officer has worked for some time that we shall be in a position to see how far the machinery of conciliation is sufficient to deal with industrial disputes and how far it is necessary to strengthen what I may call the penal provisions of the Trade Disputes Act. Without this experience you are not in a position to justify the amendments now put forward. Therefore, Sir, while according my support to the appointment of a Conciliation Officer, I oppose all those clauses of the Bill which seek to make amendments which may not serve the purpose that Government have in view and will at the same time jeopardise the object that they would like to be achieved by the appointment of a Conciliation Officer.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : Sir, I must admit that I was left in a state of bewilderment this morning by the Progressive Party. I am sorry they are not here now. They rather reminded me of the advertisement of a tourist agency. It said, "Send us your luggage and we will deliver it in all directions!" They seem to be progressing in all directions. I must admit that the Honourable Pandit Kunzru left me under the impression that he rather likes strikes. Fortunately, most of the other Honourable Members do not like strikes. Certainly those who have had any experience of them do not like them. Then, the Honourable Mr. Hossain Imam made a point, which I want to make also, that this provision about tramways and water transport services being public utility services is not mandatory. It is merely a power given to the Local Governments. I cannot understand how the Honourable Mr. Sapru can say that it is reasonable that there should be no power to make a tramway a public utility service. It obviously is very often of the greatest importance to the public and the suggestion that there is always an alternative is to my mind quite beside the point. It is not so. Very often, there is no alternative.

Then, one Honourable Member on the Opposition Benches said that this was repressive legislation. I think it was the Honourable Mr. Kunzru who said it, but I am not quite sure. This is not repressive; this is merely restrictive in the interests of the nation and the community as a whole.

We welcome this Bill as tending to reduce the risks of strikes and to end them when they occur.

THE HONOURABLE MR. A. G. CLOW : Sir, I must thank the House for the reception it has given to the Bill. I was particularly glad to note that all the Honourable Members—there have been many—who have spoken from the front Benches have supported it. Criticisms came only from the Honourable Mr. Sapru and the Honourable Pandit Kunzru, neither of whom, I regret to observe, is present now. So far as I can gather, the Honourable Mr. Sapru's objections were limited to two clauses out of the ten—clauses 2 and 8. The point that he seemed to overlook throughout his speech was that we are not trying in those clauses to confer benefits particularly on employers or on labour. We have in mind the community as a whole. He suggested that in some mysterious way a public utility service ceased to be a public utility service when it was owned by a private employer, thereby showing that he overlooked the object of the provision which is to protect the community against sudden stoppages of work in those services. Suppose we sit here one night and all the lights suddenly go out. It is no consolation at all to hear Mr. Sapru's kindly voice saying, "It is all right; this electricity concern is being run by a private company for profit!" We are exactly in the same position as if it was being run by Government. If you have the whole power and lights cut off from a city, the situation is just as serious when it is a State organisation as when it is run by my Honourable friend Mr. Parker, or any other capitalist.

As a matter of fact, I thought that the Honourable Mr. Sapru's argument had been so effectively answered by subsequent speakers that I was hardly expecting them to be repeated in a slightly different form by the Honourable Pandit Kunzru. He also made it a complaint that I had not given a history of the measure. I thought it better to present the measure as it stands to the House for it to consider it on its merits. I did not see we were very greatly concerned with the history behind it which is fairly familiar to most Honourable Members of the House. But I will recall the fact that the original Act. . . . As the Honourable Pandit Kunzru has come in; I would repeat that I was trying to give, in answer to his complaint, a very brief history of the measure. The original Trade Disputes Act was a temporary measure for five years. The Whitley Commission offered certain observations and criticisms of it and indicated that a permanent measure was required. A one clause Bill was introduced making the measure permanent. But as we were not ready with proposals for amendment, the undertaking was given that a further measure would be introduced which would give the Legislature an opportunity of reviewing the more important clauses of the main Act. It is in pursuance of that undertaking that the Bill was introduced. There are further indications of the history of the Bill in the Statement of Objects and Reasons. For example, clauses 4, 5 and 6 owe their origin to a big Court of Enquiry—an enquiry into retrenchment on railways. Clause 10, as I said, came from the Whitley Commission. Clause 7, I think, is due to a suggestion made by a Provincial Government. Clause 8, as the House is well aware, is not the clause that stood in the Bill when it was originally introduced. I cannot refer to the vicissitudes which it underwent in the Select Committee and in another place. But where, I think, my Honourable friend Pandit Kunzru went astray was in his suggestion that the whole object of the original Act was to be found in sections 15 and 16. He seemed to be under the impression that these were designed to meet a grave emergency only. That is true of section 16, but that is not in the least true of section 15, which is an ordinary provision, for which parallels can be found elsewhere, for the protection of the public. Well, Sir, Sir Bhupendra Mitra,

[Mr. A. G. Clow.]

who was not merely the sponsor but very largely the author of the original measure, has gone from us. But I was fairly closely in his confidence and I am quite sure that there is no foundation for the Honourable Pandit Kunzru's conjecture that if clauses 15 and 16 had not been there, he would not have gone on with the Bill. Actually, these proposals were under consideration before there was any suggestion of the 1927 Act in England on which clause 16 was based. I may say that he regarded, as I certainly do, the first 14 clauses of the Act as constituting its main part.

I think my Honourable friend was equally astray in suggesting that I had set out the number of strikes we have recently had as a justification for this provision. I should have been on weak ground if I had done so, because the Bill was actually introduced two years ago and we could not have possibly anticipated the events of the last twelve months. I was merely referring to the number of strikes as indicating the importance of doing all we can to mitigate industrial unrest; I did not cite them as supporting these provisions. These provisions stand on their merits and I would regard them equally as good if we had had in the last year 100 strikes instead of over 300.

THE HONOURABLE THE PRESIDENT: Motion moved:

"That the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

Clauses 2, 3, 4 and 5 were added to the Bill.

Clauses 6, 7, 8 and 9 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 10.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India: Nominated Official): Sir, with your permission I would like to move the amendment in my name in a somewhat different form. Instead of substituting for the words "by him or under his" the words "by it or under its" I would wish to substitute "by them or under their". The amendment will then read—

"That in clause 10 in sub-section (1) of proposed section 18A for the words 'by him or under his' the words 'by them or under their' be substituted."

There is merely a grammatical change.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That in clause 10 in sub-section (1) of proposed section 18A for the words 'by him or under his' the words 'by them or under their' be substituted."

Question put and amendment adopted.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I move:

"That in clause 10 to the proposed section 18A the following sub-sections be added, namely:

- (4) If any person supplying information or producing a document to a Conciliation Officer requests that the information or the document or any part thereof shall be treated as confidential the Conciliation Officer shall not disclose such information or the contents of such document or part thereof except to—
- (a) the authority which appointed him to be a Conciliation Officer; or
 - (b) the parties concerned in the dispute for the purpose of mediating therein or promoting the settlement thereof.

- (5) If the Conciliation Officer contravenes the provisions of sub-section (4), he shall be punishable with fine which may extend to one hundred rupees.
- (6) No Criminal Court shall take cognizance of an offence under this section except with the previous sanction of the authority appointing the Conciliation Officer ; and no Civil Court shall without the like sanction entertain any suit against a Conciliation Officer in respect of the disclosure of any information or the contents of any document or part thereof of the nature referred to in sub-section (4)."

Now, Sir, the existing Act in section 13 deals with the question of disclosure of information of this kind by the Courts or Boards provided for under the Act and by any individual members, and we are seeking to make somewhat similar provisions regarding information which may become known to a conciliator in the course of his duties. It is a matter of considerable importance. It is quite evident that a conciliator might get information which would be bad for the public, bad for the business, bad for the owners and possibly bad for the labourers. But, generally speaking, I think it is proper that all information which is obtained in the course of proceedings of this particular kind should be only used towards the end in view, that is conciliation, and that no other use really ought to be made of it. In these circumstances I understand that conferences outside this House have considered the matter since it was considered in the Lower House and that they have come to the conclusion that this is right and proper, and I hope it will be acceptable to all Members of the House.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir, my Honourable friend who has proposed this amendment said in the course of his speech that he was certain that, generally speaking, it was desirable that confidential information supplied to the Conciliation Officer should be treated as such. Now, I agree with him there, but when he used the word "generally" he introduced an important qualification. His amendment however recognises no such exception. The amendment makes it obligatory on the Conciliation Officer not to disclose the information or any part of it at any time. Now it may be desirable for the Conciliation Officer to make some part of it public. This is recognised by the law in other countries. I may for example refer to the Canadian Disputes Investigation Act. Clause 32 of that Act says :

' that when confidential information is supplied to the officer concerned, the information so obtained shall not, except in so far as the Board deems it expedient, be made public ".

Now here it is accepted, generally speaking, that the information received by the Board would be treated by it as secret, but it has been left discretion in the matter. Its hands are not completely tied. I ask that the same discretion should be left to the Conciliation Officer in this country. If my Honourable friend could introduce some word which would have the effect of bringing out his idea that the information given to the Conciliation Officer should generally be treated as confidential, I would be perfectly prepared to support him. But in its present broad form it is open to objection. I hope he will look into the matter and will see that the objection to which I have drawn attention is done away with.

THE HONOURABLE MR. R. H. PARKER: Sir, if I may say so, I think the objection is rather far-fetched, and for my part I could not suggest any change.

THE HONOURABLE MR. A. G. CLOW: Sir, I do not think the amendment is open to the objection raised by my Honourable friend Pandit Kunzru. The whole object of Conciliation Officers is to work privately, and in fact that I

[Mr. A. G. Clow.]

think was mentioned by the Whitley Commission. And if there is a possibility that in certain cases, which obviously would not be capable of definition, the information which they receive from what I may call their clients is going to be disclosed, I am sure their value would be very seriously impaired. I would refer to section 13 of the Act which contains somewhat analogous provisions in the case of Courts and Boards. It seems to me that Courts and Boards now are designed to appeal to the public opinion. Here we have an officer working completely informally, approaching one party one day and making a suggestion to them, approaching another party another day and putting certain aspects before them. And I hope if suitable officers are appointed—and I agree with Mr. Hossain Imam that the personnel of these officers will be a matter of considerable importance—but if suitable officers are appointed they will naturally be the recipients of confidence and of confidential information. It seems to me that the value of their work would be undermined if when a special request is made to keep information confidential the officer was in a position to ignore that request.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, may I say a word to Mr. Clow and Mr. Parker? In section 13, to which reference has been made, there is a provision which guards the interests which Pandit Kunzru wants to safeguard. The wording of the original section is:

“Any information obtained by the Court or Board in the course of its enquiry or investigation as to any Trade Union which is not available otherwise than through evidence given before the Court or Board”.

If that is introduced in this amendment, that would meet the objection which Pandit Kunzru has. It is really a tall order to say that at one time what the parties give will be private and next time it will not be private. For this reason the Legislature in 1932 had provided a check. If that check is incorporated, I think Pandit Kunzru will not have objection to it.

THE HONOURABLE MR. P. N. SAPRU: Sir, may I with your permission suggest that if the wording is slightly altered, it may perhaps meet the point of view of all.

THE HONOURABLE THE PRESIDENT: Both the Mover of the amendment and the Government Member in charge have refused to accept the suggestion to make an alteration in the amendment.

THE HONOURABLE MR. P. N. SAPRU: I do not know whether Mr. Parker and Mr. Clow will refuse to listen to reasonable arguments which may be suggested.

THE HONOURABLE THE PRESIDENT: You should have said all that after the Honourable Mr. Parker moved his amendment.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan): Sir, this point is, I find, already provided for in the amendment of Mr. Parker. In this section of the Trade Disputes Act it says that this information shall be treated as confidential except with the consent in writing of the Secretary of the Trade Union or the employer. Now, the amendment which the Honourable Mr. Parker has moved more or less carries the same idea, for it begins like this:

“If any person supplying information or producing a document to a Conciliation Officer requests that the information or the document or any part thereof, shall be treated as confidential the Conciliation Officer shall not disclose such information”.

So it is only in such cases where the party concerned requests that it shall be treated as confidential information, it will be so treated. The difference is only in the expression. There this conditional clause is put at the end and here the clause begins with this condition. I therefore think that Honourable Members will see that this point is really secured.

THE HONOURABLE MR. A. G. CLOW : Sir, I think it is dangerous to accept an amendment of this kind on the floor of the House. The point seems
3-5 P.M. to me personally to be more or less covered by the words "supplying information" which I do not find in section 13. The Honourable Mr. Parker's amendment begins with the words :

"If any person supplying information or producing a document to a Conciliation Officer requests".

If the Conciliation Officer had already been supplied with the information from another source or had got a document from another source, surely he would not be guilty of a breach of this provision if he disclosed it.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That in clause 10 to the proposed section 18A the following sub-sections be added namely :

- (4) If any person supplying information or producing a document to a Conciliation Officer requests that the information or the document or any part thereof shall be treated as confidential the Conciliation Officer shall not disclose such information or the contents of such document or part thereof except to —
- (a) the authority which appointed him to be a Conciliation Officer ; or
 - (b) the parties concerned in the dispute for the purpose of mediating therein or promoting the settlement thereof.
- 5) If the Conciliation Officer contravenes the provisions of sub-section (4), he shall be punishable with fine which may extend to one hundred rupees.
- (6) No Criminal Court shall take cognizance of an offence under this section except with the previous sanction of the authority appointing the Conciliation Officer ; and no Civil Court shall without the like sanction entertain any suit against a Conciliation Officer in respect of the disclosure of any information or the contents of any document or part thereof of the nature referred to in sub-section (4)."

Question put and amendment adopted.

Clause 10, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. G. CLOW : Sir, I move :

"That the Bill further to amend the Trade Disputes Act, 1929, for certain purposes, as passed by the Legislative Assembly and as amended by the Council of State, be passed."

The Motion was adopted.

HINDU WOMEN'S RIGHTS TO PROPERTY (AMENDMENT) BILL.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India : Nominated Official) : Sir, I move :

"That the Bill to amend the Hindu Women's Rights to Property Act, 1937, as passed by the Legislative Assembly, be taken into consideration."

[Mr. A. deC Williams.]

This Bill, Sir, is designed solely to remove certain defects which were found in the Hindu Women's Rights to Property Act, 1937, and to clear up certain ambiguities in its wording which have been detected since it became law. In that sense I cannot claim that the Bill makes no substantial change in the law, but it in no way contravenes or interferes with the principles of the parent Act and it will be out of place to discuss those principles now. There is very little which I need add to what is stated in the Statement of Objects and Reasons as regards the provisions of the Bill. The words "leaving a widow" in section 2 of the Act itself were somewhat unfortunate for they have the effect of depriving widowed daughters-in-law of their rights under the two provisos to sub-section (1) of section 3 of the Act in cases where the Hindu happens to die a widower. This was never intended when the parent Act was framed and consequently the Bill provides that those words should be omitted from section 2 of the Act.

A number of changes have been made by the Bill in sub-section (1) of section 3. In that sub-section the words "along with his lineal descendants, if any" are somewhat misleading, because they might be taken to mean that daughters and the lineal descendants of daughters can succeed along with the widow or widows. This again was not the intention of the framers of the Act and these words have been omitted. Again, in sub-section (1) of section 3 as it stands the words "devolve in like manner as it devolves upon a son" are not very clear and the Bill has substituted the simple statement that the widow shall be entitled to the same share as a son. Again, this sub-section as it stands is ambiguous in cases where the intestacy of the deceased relates only to part of the property and the rest of the property is covered by a will. The Bill makes clear, as was originally intended, that in such cases the right of the widow relates only to the property which is not covered by the will. Further, the same sub-section only referred to the widow in the singular and doubt has been felt as to what would be the position if there were more than one widow. The Bill now makes it clear that if there is more than one widow, all the widows together will get the share of one son.

In sub-section (2) of section 3 of the Act, the word "intestate" is most inappropriate because it is used in relation to the joint family property referred to in the sub-section which cannot be disposed of by will. Consequently that word is inappropriate in its application to joint property of that nature and the Bill proposes to omit it.

In sub-section (4) of section 3, there is a lacuna. The sub-section purports to save certain estates which descend to a single heir either by custom or by rule of succession and the sub-section omitted to make any reference to estates which descend to a single heir by virtue of the terms of a State grant. There is judicial authority to the effect that the terms of these State grants will overrule the ordinary Hindu law of succession and it is considered desirable to make a reference to such grants in the sub-section.

Finally, Sir, it has been considered advisable to insert in the Act a definition of intestacy on the lines of section 30 of the Indian Succession Act, chiefly to meet the case where there has been a will but the will is subsequently found to be invalid. I may add that it is proposed that the Bill should have retrospective effect as from the commencement of the Act itself.

Sir, I move.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) :
Sir, this Bill, while it improves the Act as it stands in certain respects, also

introduces another complication which is probably as unconsciously being introduced as certain what I should call defects crept in in the last Bill on account of, I should say, loose drafting. So far as clause 1 is concerned, I have nothing to say but coming to clause 2, I admit it is an improvement when you say the words "leaving a widow" are to be omitted. The Act as it stands makes it conditional. It will apply only in those cases where a man left a widow. If he did not leave a widow it will not apply, if he had a son and the widow of a predeceased son, she will not get a share. So the object is defeated.

But now when we come to clause 3 (1) which substitutes and replaces section 3 (1) of the original Act, it introduces another clause. "If there is more than one widow all his widows together shall.....". The effect of it is that in case a person dies leaving more than one widow, then all his widows will get but one share. Under the Hindu law, if he dies leaving two widows, each widow is entitled to a share. I will illustrate this. If a person dies separate, separate say from his sons, one by each wife. Now, under the ordinary Hindu law, if there is a separate property of this person, his sons will each get a share and each of his widows will get a share.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Mayukā, or what are you talking about?

THE HONOURABLE MR. G. S. MOTILAL: Mitakshara.

THE HONOURABLE SIR DAVID DEVADOSS: They do not get a share at all.

THE HONOURABLE MR. G. S. MOTILAL: They do. Each wife gets a share.

THE HONOURABLE SIR DAVID DEVADOSS: No, no. Not in the Mitakshara. The sons get the property and the widow gets maintenance.

THE HONOURABLE MR. G. S. MOTILAL: You are only referring to the Madras school. This is the law according to the Benares school.

THE HONOURABLE SIR DAVID DEVADOSS: That is not Mitakshara. In Bombay they have Mayuka.

THE HONOURABLE MR. G. S. MOTILAL: That is again a mistake. It is not Mayuka. There are a number of Benares families in Bombay also. There are a number of Mitakshara families in Calcutta also. I don't know how these keen lawyers from Madras don't know this. Wherever the Benares school prevails, she does get a share.

THE HONOURABLE THE PRESIDENT: My law is rather stale but I am inclined to agree with Sir David Devadoss.

THE HONOURABLE MR. G. S. MOTILAL: At any rate, assuming that the widows do not get a share in Madras, now they will get a share under the new Act. Now where there is more than one widow, all the widows together will get one share. The widows may divide it among themselves.

THE HONOURABLE THE PRESIDENT: Don't you think that is very equitable?

THE HONOURABLE MR. G. S. MOTILAL : Well, that is a different matter. But that is really introducing a change in the Hindu law as it stands and this change is to the prejudice of the women. Is it intended? I do not think, Sir, that it is intended even by the framers of this Bill that these Hindu widows should have their rights restricted further. I am only pointing it out at this stage. I had not the time to send an amendment. I wish that those words be omitted, viz., "if there is more than one widow, all the widows together shall". If these words were omitted, it would not affect the Hindu law. It would leave it as it is. Each widow would get a share equal to her son.

THE HONOURABLE SIE DAVID DEVADOSS : If there are 20 widows, they will get 20 shares.

THE HONOURABLE MR. G. S. MOTILAL : Well, that is the Hindu law.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal: Non-Muhammadan) : In Dayabag at least the widows get one equal share with the sons on a partition among them. If there are more than one widow they will divide it among themselves. This is in the Bengal school of Hindu law.

THE HONOURABLE MR. G. S. MOTILAL : I am not sure about the Bengal school of Hindu law, but so far as the Benares school is concerned, I am sure what I have stated is the position. Anyway, this is a fact which I want to point out. I want to do so because we are out not to restrict the rights of the women but to give them something more.

I really regret the other amendment also. I had thought that this expression "lineal descendant" was introduced so that where the person is separate on her death the property should also go to the daughters along with the sons. This question was discussed some time ago when something cropped up here and my friend sitting on my left said no share is given to daughters by the new Act. I thought it had been introduced deliberately. But now they say it was not the intention of the Legislature (and probably that is correct) but these words came in there, and as the words were there I would have been pleased if the view that it was intended to give a share to the daughters also had been taken and things had been made clearer. Of course, it means a change in the Hindu law. Even this Bill is changing the Hindu law. Advanced opinion does want changes in the Hindu law.

THE HONOURABLE THE PRESIDENT : In the Assembly there are many most eminent Hindu lawyers and they have not objected.

THE HONOURABLE MR. G. S. MOTILAL : Then you mean to say we should not speak about it here?

THE HONOURABLE THE PRESIDENT : No, you can speak as much as you like.

THE HONOURABLE MR. G. S. MOTILAL : Very well, Sir. That is the point I am raising. If it had been raised in the Assembly it would not have been necessary for me to raise it here. I want Government to take note of this point and take the Bill back to the Assembly, to get it amended and bring it again in this House in the form in which the Assembly feel it should be put. This is one important point that I thought I should mention. I feel that a committee should now be appointed to go into the reform of Hindu law.

Many Hindus feel that the whole reform of the Hindu law should now be undertaken and a committee should be appointed—

THE HONOURABLE THE PRESIDENT : That is another matter.

THE HONOURABLE MR. G. S. MOTILAL : I will bring a Resolution for it. But I do wish to say that a committee should be appointed so that, instead of going in for piecemeal legislation, the whole Hindu law is considerably improved and brought in conformity with modern conditions.

THE HONOURABLE THE PRESIDENT : Quite so, but in the meanwhile let us pass this Bill!

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muham-
madan): Sir, if the law in any province is that the widows should get as many shares as there are widows equally with the sons, then in the interests of Hindu law itself, it ought to be changed and the sooner it is changed the better. It will discourage more than one woman marrying a man, if you say that the wives won't get more than one share between them.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I will not join issue with my Honourable friend either as regards the law or as regards the merits, because in effect the Government, in framing this Bill, were concerned with neither. Government are only concerned to see that the intentions of the original framers of the Act are properly put into effect (as it appears unfortunately they were not) and Government are in a position, and the Members of the other House were in a position, to satisfy themselves that this Bill does give effect to those intentions. We are not concerned with the past state of the law or with the actual merits of these various items which have been discussed here.

THE HONOURABLE THE PRESIDENT : Motion moved :

"That the Bill to amend the Hindu Women's Rights to Property Act, 1937, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

THE HONOURABLE THE PRESIDENT : The Council will now proceed to elect six non-official Members from the Council who shall be required to serve on the Central Advisory Council for Railways. The election will be according to the principle of proportional representation by means of the single transferable vote and the ballot papers will now be placed in Members'

[Mr. President.]

hands and I ask the Honourable Members to vote in accordance with the instructions noted thereon. I have also to inform the House that the Honourable Sardar Buta Singh and the Honourable Rai Bahadur Lala Ram Saran Das have since withdrawn their candidature for election.

(Ballot papers were then distributed and Members recorded their votes.)

THE HONOURABLE THE PRESIDENT : The result of the election will be announced later.

The Council then adjourned till Eleven of the Clock on Monday, the 4th April, 1938.
