

THE BIHAR LEGISLATIVE ASSEMBLY DEBATES.

Tuesday, the 23rd September 1947.

Proceedings of the Bihar Legislative Assembly assembled under the provisions of the Government of India Act, 1935.

The Assembly met in the Assembly Chamber at Ranchi on Tuesday, the 23rd September, 1947, at 2 P.M., the Hon'ble the Speaker Mr Vindhyeshwari Prasada Varma, in the Chair.

QUESTION AND ANSWER.

APPOINTMENT OF CLERKS ON POPULATION BASIS IN THE REGISTRATION DEPARTMENT.

21. Mr. GANESH PRASAD SAH: Will the Hon'ble Minister in charge of Revenue be pleased to state—

(a) whether it is a fact that there are 24 clerks in Champaran Registry Offices—17 Muhammadans and 7 Hindus ;

(b) if the answer to clause (a) be in affirmative, do Government propose to adopt the policy of appointing only Hindu clerks in future appointments to adjust the number of Hindus and Muhammadans according to population basis ; if not, why ?

The Hon'ble Mr. KRISHNA BALLABH SAHAY : (a) The answer is in the affirmative.

(b) There is no such proposal before Government.

Mr. JAMUNA PRASHAD SINGH : Is there any general instruction by Government for appointment by Departmental heads on communal basis ?

The Hon'ble Mr. KRISHNA BALLABH SAHAY : The answer is in the negative.

Mr. MUHAMMAD ABDUL GHANI : What is the position of Muslim clerks in all the Registration Offices in Bihar taken together ?

The Hon'ble Mr. KRISHNA BALLABH SAHAY : I want notice Sir. As a matter of fact, the question does not arise. The question is about Champaran Registry offices only.

The Hon'ble the SPEAKER : Yes. Part (a) of the question is limited to Champaran, how can part (b) apply to the whole of the province

THAT CLAUSE I, AS REPORTED BY THE SELECT COMMITTEE, DO
STAND PART OF THE BILL.

The motion was adopted.

Clause I was added to the Bill.

The Hon'ble the Speaker : The question is :

THAT THE PREAMBLE BE ADDED TO THE BILL.

The motion was adopted.

The Preamble was added to the Bill.

The Hon'ble the Speaker : The question is :

THAT THE TITLE BE ADDED TO THE BILL.

The motion was adopted.

The Title was added to the Bill.

The Hon'ble Mr. Krishna Ballabh Sahaya : Sir, I beg to
move :

THAT THE CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1947,
AS REPORTED BY THE SELECT COMMITTEE, AND AS SETTLED IN
THE HOUSE BE PASSED.

The Hon'ble the Speaker : The question is ;

THAT THE CHOTA NAGPUE TENANCY (AMENDMENT) BILL, 1947,
AS REPORTED BY THE SELECT COMMITTEE AND AS SETTLED IN
THE HOUSE BE PASSED.

The motion was adopted.

**THE BIHAR ESSENTIAL SERVICES MAINTENNANCE BILL, 1947 AND
(BILL NO. OF 1947)**

The Hon'ble the Speaker : Now, we pass on to item no. 9 on
the List of Business.

Mr. Shyamnandan Sahaya : What is that, Sir ?

The Hon'ble the Speaker : That is the Bihar Essential Services
Maintenance Bill, 1947.

Mr. Shyamnandan Sahay : हज़ुर अब पांच बज रहा है ।

The Hon'ble Mr. Krishna Ballabh Sahay : हमलोगों को क्षल
बजे तक बैठना है ।

The Hon'ble Mr. Sri Krishna Sinha : Sir, I beg to introduce the Bihar Essential Services Maintenance Bill 1947.

The Hon'ble the Speaker : The Bill is introduced.

The Hon'ble Mr. Sri Krishna Sinha : Sir, I beg to move :

THAT THE BIHAR ESSENTIAL SERVICES MAINTENANCE BILL, 1947, BE TAKEN INTO CONSIDERATION.

Previously, Sir, I sent in a motion that the Bill be referred to a Select Committee, but after mature consideration I thought that the Bill was not of such a nature as to require being considered in a Select Committee. The Bill is a very simple and short one consisting of only a few clauses. I know that the Bill is a very short and simple one, but certainly it involves a principle which may need discussion, and it is this place where the principle underlying the Bill may be more usefully discussed. In the Select Committee we simply consider the different clauses and try to remedy the defects.

But in such a small Bill that stage is perhaps not necessary. Sir, I have already said that the Bill is a simple one but it involves a very important principle and a sense of duty impells me to lay that principle before this House, I would also at the same time like that the House should realise the principle underlying this Bill. We are living in a period of transition and the period of transition is always a very difficult period. The period of transition ordinarily means that it is a period when an old social order is giving place to a new one. A social order in order that it may run smoothly has to be on certain convention to which the members of the society give willing allegiance. The construction of the social order always means improvement and adjustment between the claims of the individuals composing the society and the class of the society of which it is composed. Any society can not run smoothly unless the individuals composing the society have reached at certain agreement regarding vital principle governing the society. A social order takes time to consolidate itself. Individuals take time to realise that the society which they compose is run efficiently and has to be based on certain agreements and unless and until the time comes when the social order is able to consolidate itself, there is always danger so long friction continues. There have been millions of transition in the history of mankind and in all those periods - trying periods - there have been confusion. There is the Greek civilization in the history when philosophy came to sway the minds of men composing the society. It is known that the Greek civilization is known for its philosophy and then came rationality but before the age of rationality and philosophy, there was an age when the great society was

based on superstition. When philosophy took birth, there was a period of transition. During this period of transition, there was utter confusion in the great society because of the onslaughts of the hold of superstition of men and thus the society had disappeared and philosophy reasoning had taken its place. Thus that voice of cohesion was wanting which could make individuals constituting the great society. During all these periods there have been confusion in modern times. Strikes on a large scale—on unprecedented scale have been the order of the day. During the course of the last century whenever there have been a change in the social order, it has been by strikes on a large scale. Some such things were being witnessed today in India. I must admit that we are living in an age which has come to believe in the right of individuals and to enforce their claims. This Government to believe in the principle of the right of strike but in this transitional period, we have to be cautious about it. While strikes are necessary to enforce the claims of individuals, we have also to see that there is a sense of responsibility in the individuals which will make them feel that before they press their claims, they have to see that society lives and prospers and they should raise their humble contribution to the smooth movement of society. This Bill is concerned with the right of strikes by one particular group. This Bill has got nothing to do with the right of strikes in industries and Commerce and other departments of life. This Bill is confined to curb the right of strikes so far as individuals who have entered into contract to serve the Government.

Sir, at the critical time through which we all are passing we have to see that confusion does not arise which will paralise the society altogether. The work of the society is carried through institutions. There are commercial institutions. There are educational institutions but above all, this institution is that great and paramount institution of the State whose existence is necessary for the very existence of society. If the State is paralised, society is paralysed. The elements of disorder and lawlessness are let loose and in a society where lawlessness is abroad, where people have lost all sense of decency, no industrial institution, no educational institution can exist and prosper.

Therefore it is very necessary that the great and sacred institution of the State, especially in a period of transition, is maintained. But we are not yet able to subordinate the individual's claim to the claim of the new social order for which the State does exist. It is very necessary that at this critical moment there should be a law which would curb the right to strike of those who have given their service to the State. Ordinarily, in a well-developed society in normal times where a modern State has developed itself such a measure is not necessary, because the individual knows that prior to his this claim he owes a duty to the State since

without that State his very existence as an individual becomes impossible. It will have to be admitted that we have not yet reached that stage. I know there are groups in this province who inspite of the fact that millions of people of this country have decided to have a democratic form of Government still believe in the method of direct capture of power. Only the other day we in this province had strike among the police force. The essential and the primary duty of the State is to maintain law and order and only after the garden of the society has been cleared of all weeds and thorns and the beds for beautiful roses have been laid out that there comes the constructive road of the developement of society. In the present stage we have not yet developed among ourselves that sense of civic virtue which we shall require, and require in abundance, to run the new State which we have just founded successfully. The other day we had a demonstration of this in the strike which we had amongst the police force. The police in any country has a very sacred duty to perform. Let the police force go on strike and the whole society is left to become a prey to crimes and other social enemies of the State. I have given this as an illustration here, because the whole idea of bringing in an Essential Services Bill arose out of that strike. I while deploring the police strike the other day here from my seat as the Member in charge of law and order gave my heartfelt thanks to the police force for the splendid way in which they have behaved during the last few months. During the last few months our province has passed through an ordeal; and I know at what great sacrifice of their lives and earthly comforts my police force, especially the constabulary in the province has faced the situation with courage which will do credit to any force and to any Government having the services of that force. I pay my homage from this seat in the Assembly to the great police force and especially to the constabulary of my province. I hope in the difficult times to come they will continue to give that allegiance to this Government. But I know they are subjected to vile propaganda and it is against this vile propaganda that every Government has to take steps. But it is not against the police force only, it is not against strikes only, that such measures are adopted. I hope every section of the House will agree with me that so far as the institution of government is concerned, Government must be armed with the power to declare such services essential. In such services Government cannot allow strikes and they cannot allow people to engineer strikes. This is the only principle underlying this Bill. According to this Bill, Sir, it has been declared an offence to disobey orders given by Government on the part of Government servants in connection with their duty. It is made an offence for any Government servant to desert and abandon his post of duty. and I hope every hon'ble member will agree that if Government is to run efficiently and well, especially at this difficult period in the history of our country, it is very necessary that Government should be armed with that power.

Then there is another provision that those who out of sheer ignorance wish to tamper with the loyal allegiance of any Government servants and want to induce them to disobey Government order or to abandon their post of duty are also liable to be punished. Sir, the basic foundation of this Bill is that so far as Government is concerned, it should be given the power to prohibit strikes in services the discontinuance of which may, in the opinion of Government, be dangerous for public peace and order. Those who engineer such things may be punished according to law. Those who fall victim to such things and do acts which they are not expected to do in discharge of their duties shall be punished.

I hope, Sir, I have laid before the House in a sufficiently clear manner principle underlying this measure, and I invite the House to accept it. If you do not accept this principle, you are at liberty to reject this Bill. But before you decide to reject the Bill I would remind you to consider the great responsibilities that develop upon you. A time will come when that sense of citizenship will have developed in all of us when even a Government servant will think that it is his duty to render proper allegiance to the State, for his well-being and for the well-being of the society. But that sense has not yet developed in us. I hope every section of the House will support this Bill.

Mr. Shyamnandan Sahaya : I desire to accord my fullest support to the measure which has just been introduced by the Hon'ble the Prime Minister. After his very illuminating and eloquent speech disclosing the reasons why this measure was contemplated and detailing the different provisions of the Bill and the necessity thereof perhaps I should not have wasted your time in speaking in support of this Bill which, I submit, hardly needs any support. But I do so because I desire to associate myself with the very high sentiments expressed by the Hon'ble Prime Minister with regard to the future governance of not only of this province but also with equal application of the entire country. I desire to assure him that he carries with himself in this measure the support of all sections of the House. I think this is a time in our country when we should realise that firmness in administration is as patriotic an act as anything else hitherto done.

Sir, It was time when we differentiated between liberty and licence and I believe it is a good augury for the future that the Government of Bihar have introduced this measure. A measure of this nature, I submit is fully called for and is most justified. I shall, as I have said, Sir, not take much of your valuable time because there is hardly anything to be said about the provisions of the Bill which lay down in very clear terms the intention of the Mover of the Bill. I repeat, Sir, that the Hon'ble the Prime Minister has the unstinted support of this side of the House.

Mr. Prabhatchandra Bose : Sir, I propose to say a few words on this Bill.

The Hon'ble the Speaker : As briefly as possible.

Mr. Prabhatchandra Bose : Sir, I am one of those who believe in a Government by co-operation and not that by Ordinances and laws and I am certain that the Congress Government would have been the last Government to bring a measure of this kind before this House were the conditions and circumstances not been what they are today. What I want to say in simple. I only want an assurance from the Hon'ble the Prime Minister that the provisions of this Bill will not be applicable to genuine cases of trade disputes. The strikes that occur in the labour concerns are not unoften due to certain genuine grievances and I know it for certain as I have worked in the labour field, and at the present time the most important of the grievances is the shortage of food and cloth. I, therefore, ask the Government to see that blackmarketing, profiteering and hoarding are removed at once and if that is done much of the trouble and privations of the labour workers will be removed. As regards the political parties to which the Hon'ble the Prime Minister has referred, they are certainly doing mischief but if we remove the grievances of the employees by providing them food and cloth, I hope, the political parties will not be able to do much mischief and would not be able to harm our interest.

Mr. Latifur Rahman :

جناب عالی، ابھی جو بل محترم وزیر اعظم نے گورنمنٹ کی طرف سے پیش کیا ہے، میں اپنی پارٹی کے طرف سے اسکی تائید کرتا ہوں ملک کی جو فضا ہو رہی ہے، ہم اور آپ جس انقلاب سے گزر رہے ہیں، ملک کے اندر جس قسم کے جذبات پھیلنے جارہے، ان سب باتوں کے پیش نظر ضروری ہے کہ اس طریقہ کا measure (قانون) حکومت کے ہاتھ میں دیکھ لیا جائے جس کے ذریعہ وہ صوبہ میں امن اور سلامتی قائم رکھے۔ اسلئے اس بل کو خوش آمدید کہتے ہوئے میں مناسب سمجھتا ہوں کہ وزیر اعظم سے یہ عرض بھی کروں کہ جہاں قوانین کے ذریعہ حکومت کی جاتی ہے وہاں اسکی بھی ضرورت ہے کہ خواتین کے علاوہ بھی جہاں واقعی میں لوگوں کو تکلیف ہو، وہاں قوانین کے علاوہ مہربانی، نرمی اور انصاف کے ذریعہ دلوں پر قبضہ کرنا چاہئے۔ جہاں میں اس بل کی تائید کرتا ہوں وہاں وزیر اعظم سے یہ بھی درخواست کرونگا کہ وقت پڑنے پر صرف قانون ہی نہیں بلکہ انصاف، مروت اور رحم سے کام لیا جاسکتا ہے اور کام لینا چاہئے تاکہ کسی طبقہ کو اس بات کی شکایت نہ ہو کہ بل سے غلط صورت پیدا گیا۔ میں ان الفاظ کے ساتھ تائید کرتا ہوں اور سمجھتا ہوں کہ یہ ضروری measure تھا جو آپ لائے ہیں اسلئے ایوان کے ہر گوشہ سے اسکی تائید ہو رہی ہے۔

Mr. Murli Manohar Prasad : (Rose to speak.)

The Hon'ble the Speaker : I think no speech is necessary now at this late hour.

Mr. Murli Manohar Prasad : Please let me say a few words, Sir.

The Hon'ble the Speaker : All right.

Mr. Murli Manohar Prasad : I entirely agree that a Bill of this kind is now a necessity. I know that unless it were a case of compelling necessity the Hon'ble the Prime Minister would not be a party to a measure of this kind. Law and order have to be maintained and the new freedom just achieved has got to be secured in the real sense of the term. Sir, I agree that strikes in key services cannot possibly be allowed and so far as the last police strike is concerned I must unhesitatingly declare that mutiny, or strike, by whichever name you may call it, was absolutely unwarranted and whosoever were responsible for it exhibited a gross betrayal of the abiding interests of the province. But knowing as I do the heart of the Prime Minister and knowing as I do how valiantly and at what sacrifice he has fought for civil liberties all these many years that he has been associated with the public life, I would like to make an appeal to the Hon'ble the Prime Minister.

I am entirely at one with him about the necessity for such an enactment but he has got to remember that he has to deal with an administrative machinery, which he has inherited from the past Government notorious for woodenness and callousness. The present Government has had too little time to enforce a change and things continue to be as in the past. The danger which I apprehend, Sir, in this measure is from the manner in which the different provisions of the Bill might be used by the relevant departments upon which the Government has to rely. I would like to bring to the notice of the Prime Minister that if the powers vested under this Bill are not properly used by the administrative departments the danger to public interest and civil liberties will be very great indeed.

I should like in this connection to invite the attention of the Hon'ble the Prime Minister and when I do this I speak subject to correction. Recently orders were passed for the reinstatement of certain constables who were involved in the 1942 movement at Jamshedpur. They were convicted and of course dismissed. They have now been reinstated but when they came to join they were asked by a responsible police officer to give an undertaking of good conduct in the future and express regret for what they had done in 1942. This is one instance.

No. 2 is this, Sir. Two Assistant Sub-Inspectors were dismissed from the Special Branch in 1943 for political reasons. Orders naturally have had to be passed re-instating them but one of them, I am sorry to say, has received a letter from the department concerned re-instating him as a temporary L. C.....

The Hon'ble the Speaker : How are these relevant ?

Mr. Murli Manohar Prasad : These are relevant, Sir, in this way. Because after all the administration of an extraordinary measure of this kind must be done by officials on whose mental attitude the success or failure of such a measure depends.

The Hon'ble the Speaker : It should be made clear whether the Hon'ble member opposes the Bill.

Mr. Murli Manohar Prasad : I am supporting it. I am only inviting the attention of the Hon'ble the Prime Minister to the fact that he should see to it that after the passage of this measure, the departmental heads should undergo the necessary change suggested by time. That is what I am driving at.

The Hon'ble the Speaker : That is very common and applies to all measures.

Mr. Murli Manohar Prasad : Between 'all measures' and 'extraordinary measures' there is a world of difference, Sir. Ordinarily a popular Government would not curb the right of the people to strike but I know that an extraordinary situation exists. I know that there is a tendency to resort to strike on the slightest provocation.

The Hon'ble the Speaker : These details may be referred to the Prime Minister any day. How are these details relevant ?

Mr. Murli Manohar Prasad : I am entirely in your hands, if you think I am irrelevant, I may stop.

The Hon'ble the Speaker : I point out to the Hon'ble member that time is very short.

Mr. Murli Manohar Prasad : May I respectfully point out that it is a very extraordinary measure. If you look up the proceedings of the old Legislative Council.....

The Hon'ble the Speaker : Then it has to be approved.

Mr. Murli Manohar Prasad : I am a believer in this measure and I know that the necessity for this exists. All the same I am entitled to caution the Government against the kind of mentality that exist at present.

The Hon'ble the Speaker : Not at this stage but at the stage of passing, all these details can be gone into. This is the second reading of the Bill.

Mr. Murli Manohar Prasad : I will just make it absolutely clear that I am entirely for it and I accept the principle of the Bill. All that I want to do is to caution the Government against the old mentality persisting in departmental heads for if such mentality persists, measures of this kind will make the Government unpopular and expose them to unnecessary trouble.

The Hon'ble Mr. Sri Krishna Sinha : I may assure my hon'ble friend Mr. Bose that I extremely value the principle of cooperation in matters of administration and I do not think he needs any assurance from me so far as labour in general is concerned. Because the principle of this Bill is confined to those in the employ of Government, this Bill has got nothing to do with labour working outside the fields of Governmental activities. I thank the Hon'ble the Leader of the opposition, Mr. Sahaya, Mr. Bose and others who have always extended their helping hands to me.

Mr. Jagat Narain Lal : May I enquire from the Hon'ble the Prime Minister if 'Essential Services' includes Electric Supply Company or not ?

The Hon'ble the Speaker : This Bill is confined to Government servants only.

Mr. Sri Krishna Sinha : My friend Mr. Jagat Narain Lal did not care to read the Bill. It applies to those employed under the Provincial Government.

Mr. Jagat Narain Lal : I am sorry, Sir.

The Hon'ble Mr. Sri Krishna Sinha : Sir, I do not agree with Mr. Murli Manohar Prasad that this is an extraordinary measure. There are extraordinary circumstances which has given rise to this Bill. I think in other parts of the Free World, people do not think of resorting to strikes. So far as this country is concerned, it is an unhappy land where encouragement—either hidden or open—is given to those lower

in service to restore to strikes. The Government is the one institution in this world which has never tolerated the principle of strike so far Government service is concerned, because it paralyses the Government machinery; it paralyses the Service and it paralyses those men who go on strike. I assure my hon'ble friend Mr. Murli Manohar Prasad that I have got the deepest sympathy for those in the service of Government. I know what difficulty they are facing. I know what blackmarketing means for them. I know what food shortage means for them. But I want to draw upon the sense of patriotism inherent in them. They should know that because they are living half-starved they should not paralyse the administration without which their existence is impossible. I have this Bill as a last arm and certainly I depend upon the sense of patriotism of the thousands in the service of Government. I know they will realise the demand of time. But Government has to arm itself with powers for times of emergency. Hence the necessity of this Bill. I know it full well that without co-operation it is impossible to run the administration and I depend upon the willing and healthy co-operation of thousands who are serving this Government. I depend upon the sense of patriotism of these men. I simply want this measure because good administration demands that there should be powers kept in abeyance—the powers which can be used if emergency requires. A man who has been fighting for civil liberty all along knows where to stop and where to go far. This Bill is necessary because of the difficult times through which we are passing. I am thankful to the Hon'ble the Leader of Opposition, to Mr. Shyamnandan Sahaya and to all sections of this House for the unanimous support they have given to this Bill.

The Hon'ble the Speaker : The question is

That the Bihar Essential Services Maintenance Bill, 1947, be taken into consideration.

The motion was adopted.

The Hon'ble the Speaker : The entire Bill seems to be non-contentious. I will put the clauses together

The Hon'ble the Speaker : The question is :

THAT CLAUSES 2 TO 8 DO STAND PART OF THE BILL.

The motion was adopted.

Clauses 2 to 8 were added to the Bill

56 THE BIHAR ESSENTIAL SERVICES MAINTENANCE BILL '47 [23rd SEPT

The Hon'ble the Speaker : The question is :

THAT CLAUSE 1 DO STAND PART OF THE BILL.

The motion was adopted.

Clause 1 was added to the Bill.

The Hon'ble the Speaker : The question is :

THAT THE PREAMBLE BE ADDED TO THE BILL.

The motion was adopted.

The Preamble was added to the Bill.

The Hon'ble the Speaker : The question is :

THAT THE TITLE BE ADDED TO THE BILL.

The motion was adopted.

The Title was added to the Bill.

The Hon'ble Mr. Sri Krishna Sinha : I beg to move :

**THAT THE BIHAR ESSENTIAL SERVICES MAINTENANCE BILL,
1947 BE PASSED.**

The Hon'ble the Speaker : The question is :

That the Bihar Essential Services Maintenance Bill, 1947 be passed.

The motion was adopted.

The Assembly then adjourned till 2 P. M., Wednesday, the 24th September, 1947.