

# DIOSPOIR ACHTAI PARLAIMINTI

Seanad Éireann - Volume 44 - 04 May, 1955

Factories Bill, 1954—Second Stage.

Question proposed: "That the Bill be now read a Second Time."

...

Dr. Sheehy Skeffington: Yes, that entirely answers my question. I am glad to see that the possibility of adding fresh conditions is met there. I might, since the Minister has answered me so completely, ask him whether he is aware of any particular investigations on this line being conducted by the Minister for Health, or whether, in fact, there is active concern in regard to this question of industrial diseases and the possibility of there being other diseases attributable to factory conditions than those mentioned here.

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The next point I want to raise is in relation to Section 84 which seems to me to be, on the face of it, at any rate, not justified. I notice that Section 84 refers to institutions where certain work is carried on for charitable or reformatory purposes, and where these premises do not constitute a factory the Act will apply, except for certain conditions. It is the exceptions that concern me. I would like the Minister to develop his reasons for desiring exceptions in these conditions. The [1371] workers in such institutions, be they charitable institutions or reformatories, already suffer from one disability. They have not got trade union protection. Factory workers have a union to speak for them, but workers in semi-factories or laundries or whatever they may be, as mentioned in Section 84, have not got that protection.

It seems to me that this section is going to remove from them some of the protections that are extended to ordinary factory workers outside, who already have got trade union protection. Why is this exclusion felt to be necessary? I notice that in sub-section (2) if the managers of such institutions can "satisfy the Minister" that the only persons working therein are persons who are inmates of or are supported by the institution, then certain provisions of this whole Factory Act will not apply to them. Why not? Do not these inmates need precisely the same degree of protection as the ordinary worker outside?

There is nothing unjust about the general framework, the general conditions and provisions of the Bill. That being so, why should it appear normal to the Minister to say: "We will not apply this to people if we are satisfied that the only persons working in such conditions are inmates." The section does not quite say "mere inmates", but the suggestion as I see it is that these people are not to have all the protection afforded by this Act which I think will be a good Act when it becomes law.

Furthermore, the phrase occurs in sub-section (2) that if "such work... is carried on in good faith for the purposes of the support, education, training or reformation of the persons engaged in it, then the Minister may, by Order, direct," and so on. Now, all of these institutions, I would say, carry on such work in good faith, but I would say that there are also many factory owners outside who are going to be controlled by this Bill and who in all good faith are running factories and are doing the best they can for their workers.

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We are told that the road to hell is [1372] paved with good intentions. I find it disturbing that it is considered necessary by the Minister to exempt semi-factories of this kind from the protection afforded by the Act. I notice again that in paragraph (a) of sub-section (2) it is provided:—

"The medical officer of the institution (if any) may, on the application of the managers, be appointed to be the certifying doctor for the institution."

If some question about the medical and hygienic conditions comes up, the person to judge and to certify will be the inside medical officer. The medical profession is one of high standards of honour, but I feel it is hardly fair to them to ask them in certain circumstances to do what amounts to inspecting themselves, to act as judge and jury in their own case. Again, I find this paragraph surprising.

I notice that in the following paragraph there is an even more surprising clause. It says that an inspector shall not examine, without the consent of the managers, an inmate in the institution save in the presence of one of the managers. I can imagine circumstances where such a person on being examined by an inspector

would be extremely loath to speak freely to the inspector in the presence of people who might be coming under criticism from him. I think that this is an extraordinary clause. I do not see the purpose of it and I should like to hear from the Minister why it is felt that this kind of normal protection of allowing an inspector to speak in private to a person whom he is examining is to be removed from these people who have the misfortune to be inmates in a reformatory or in some such institution.

Finally, in the same section, I find that sub-section (3) provides:—

“This Act shall not, except in so far as the Minister may by Order direct, apply to any premises which do not constitute a factory if the premises are subject to inspection by or under the authority of any Minister of State.”

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[1373] That seems to me to be a mistaken clause because it is quite conceivable that the premises might be subject to inspection by some other Department for reasons totally different from the reasons with which we are concerned in the Factories Act. These might be premises subject to inspection by someone from the Department of Education, but that inspection would have nothing to do with safety and health and so on. Therefore, I want to ask the Minister what is the purpose of saying that such places will be exempt if they are apparently being inspected by any other Department for any other reason whatever.

I do not intend to say any more at this juncture, but these are the preoccupations which would be mine in reading this otherwise excellent Bill, and these are the sorts of things which I should like to see cleared up on the Committee Stage or by the Minister when he is winding up on this Stage of the Bill.

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Mr. Norton: Senator Sheehy Skeffington raised some questions relating to Section 84 of the Bill which deals with institutions. I think we must avoid the risk in this matter of going too far. We must deal with what appears to be nonuniform and whether it is more practicable to adopt that attitude than to follow, the uniform, pattern which may run us into difficulties.

When you are dealing with the question of Section 84, you have got to remember that the institutions referred to are those which are carried on for charitable or reformatory purposes. In so far as these are carried on for charitable or reformatory purposes and engage in doing certain things which might bring them within the scope of a factory, although they do not constitute a factory but an institution, the Minister has, nevertheless, power to apply the provisions of this Bill to them except in certain cases.

One case is that the medical officer of an institution, if any, may, on the application of the managers, be appointed to be the certifying doctor for that institution. It does not say he must be. It says he may, on the application of the managers, be appointed the certifying doctor for the institution. I suspect that Senator Sheehy Skeffington thinks that the doctor in that case might be more a policeman than a doctor.

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That just might be so although I would hope that the medical officer of an institution for quite a long time might be the best type of person to understand the mentality of the people with whom he would be dealing and that it would be better to leave him there. With his long experience of the peculiar variety of truancy of the occupants such a medical officer might, in the long run, be better than an outside doctor with no such experience and who would not know the light and shade of the pattern of life which goes on inside the institution. Therefore, I can assure the Senator that there is [1391] no sinister motive in this so far as I am concerned.

On the question of examination, paragraphs (a), (b) and (c) of the sub-section are all based on the approach to the problem from the angle that the institutions concerned are not factories in the ordinary sense; that they are reformatories and in some cases charitable institutions dealing with a variety of people and that the occupants are not the type of persons who go into an ordinary factory.

Dr. Sheehy Skeffington Dr. Sheehy Skeffington

Dr. Sheehy Skeffington: Do they not deserve the same protection?

Mr. Norton Mr. Norton

Mr. Norton: Of course, they do.

Mr. Burke Mr. Burke

Mr. Burke: Does it apply to a mental hospital where you have a laundry?

Mr. Norton Mr. Norton

Mr. Norton: It could apply to a Borstal or to places which are regarded as something in between. They should be protected by all means. A section does that by applying the provisions of the Bill to them although the place itself is not a factory. Whether you should proceed on the basis that you can do, in an

institution of that kind, a reformatory or a charitable institution, all the things it is legitimate enough to do in respect of a factory, where you have got trade unionists employed and where you have got people who have got a right to work or come out if they like, is another matter. These other people may be detainees in so far as this Bill is concerned. I liked the liberal way in which Senator Sheehy Skeffington approached this question but you have got to weigh that against the wisdom of carrying outside factory practice into an institution of this kind.

Mr. O'Reilly Mr. O'Reilly

Mr. O'Reilly: It is not possible to organise a strike within such a place.

Mr. Norton Mr. Norton

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Mr. Norton: The Senator has overlooked our history over the past 30 years if he says it is not possible to organise strikes in these institutions. As a matter of fact, some of the longest, most bitter and notable strikes took place in places which might be [1392] institutions for the purpose of this Bill.

Mr. L'Estrange Mr. L'Estrange

Mr. L'Estrange: The Senator was not there.

Mr. Norton Mr. Norton

Mr. Norton: That is another problem. I would ask Senator Sheehy Skeffington to look at the matter from that angle. If he has any deep feelings on the matter, perhaps he would discuss it again on the Committee Stage or put down an amendment. I am not wedded to the thing. I am only wedded to the idea of making a practical approach to what is a rather difficult and sticky problem when dealing with charitable institutions and reformatories.

That is all I have to say on this Stage of the Bill. In so far as the other matters raised by the Senators are concerned and on which I have not touched, perhaps, Senators will raise them on the Committee Stage? Question put and agreed to.