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SEPARATE PAGING IS GIVEN TO THIS PART, IN ORDER THAT IT MAY BE FILED AS A SEPARATE COMPILATION

PART VI

Bills introduced into the Council of the Governor General of India and Bills published before introduction in that Council

LAW DEPARTMENT

NOTIFICATIONS

The 9th February 1944

No. 582-L.—The following Bill as amended by the Joint Committee is republished for general information.

2. Persons or public bodies interested in the provisions of the Bill are requested to furnish their comments, if any, to the Secretary to the Government of Orissa, Law Department, Cuttack, not later than 1st May 1944. Opinions not submitted through the Law Secretary to the Government of Orissa will not be accepted by the Government of India.

By order of the Governor
W. W. DALZIEL

Secretary to Government

[AS AMENDED BY THE JOINT COMMITTEE]

(Words underlined or sidelined indicate the amendments, suggested by the Committee; asterisks indicate omissions.)

A

BILL

to amend and codify the Hindu Law relating to intestate succession.

WHEREAS it is expedient to amend and codify, in successive stages, the whole of the Hindu Law now in force in British India.

AND WHEREAS it is expedient first to amend and codify the general law of intestate succession;

It is hereby enacted as follows:—

PRELIMINARY

1. Short title, extent, application and commencement—

(1) This Act may be called the Hindu Code, Part I (Intestate Succession).

(2) It extends to the whole of British India.

(3) It shall apply to any person who, if this Act were not in force, would be governed in matters of intestate succession by the Hindu Law; but it shall not apply—

(i) to agricultural land except in the Chief Commissioners' Provinces, or

(ii) to any estate which descends to a single heir by a customary or other rule of succession or by the terms of any grant or enactment.

(4) It shall come into force on the 1st day of January 1946.

2. Definitions and interpretation—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) one person is said to be an "agnate" (*gotraja*) of another, if the two are related by blood wholly through males;

(b) one person is said to be a "cognate" (*bandhu*) of another, if the two are related by blood, but not wholly through males;

(c) "heir" means any person, male or female, who is entitled to succeed to the property of an intestate under this Act;

(d) "heritable property" means property which belongs to an intestate in his or her own right and passes, whether he dies leaving male issue or not by inheritance as distinct from survivorship;

Illustration

All property of a Hindu governed by the Dayabhaga School of Hindu Law is heritable property, as it passes by inheritance and not by survivorship; so too is the separate property of a Hindu governed by any Mitakshara School of Hindu Law, as also the property in the hands of the last surviving coparcener, as such property also passes by inheritance and not by survivorship.

(e) "related" means related by legitimate kinship, and any word expressing relationship or denoting a relative shall be construed accordingly;

(f) two persons are said to be related to each other by * "full blood" when they are descended from a common

ancestor by the same wife, and by * "half blood" when they are descended from a common ancestor by different wives;

(g) "son" includes a *dattaka* son, *dwyámushyáyana* son and *kritrima* son, but not a *dásiputra*; and *dattaka* son, *dwyámushyáyana* son, *kritrima* son and *dásiputra* have the same meanings as in the Hindu Law;

(h) "stridhana" means property acquired by a woman by inheritance or devise, or at a partition, or by way of absolute gift in lieu of maintenance or arrears of maintenance or by gift from a relative or stranger before, at, or after her marriage, or by her own skill or exertions, or by purchase, or by prescription, or by any other mode whatsoever.

(2) In this Act, unless there is anything repugnant in the subject or context, words importing the masculine gender shall not be taken to include females, and for the purposes of this Act,—

(a) a person is deemed to die intestate in respect of all property of which he or she has not made a testamentary disposition capable of taking effect;

* * * *

(b) the domicile of a person to whom this Act applies shall be determined in accordance with the provisions contained in sections 6 to 18, both inclusive, of the Indian Succession Act, 1925 (XXXIX of 1925);

(c) when an adoption takes place,—

(i) in the case of a *dattaka* son, the natural tie is severed and is replaced by the tie created by the adoption,

(ii) in the case of a *dwyámushyáyana* son, the natural tie continues side by side with the tie created by the adoption,

(iii) in the case of a *kritrima* son, the natural tie continues, while the tie created by the adoption is limited to the person adopted and the person or persons adopting him.

Illustration

A adopts C, son of B. C has a son, D, born to him after the adoption. Then, for the purposes of inheritance, the following consequences will result, depending upon whether C was adopted as a *dattaka*, *dwyámushyáyana* or *kritrima* son of A.

If C was adopted as a *dattaka* son, he becomes the son of A and ceases to be the son of B. He also becomes the grandson of A's father and the nephew of A's brother, and so on. He ceases to be the grandson of B's father and the nephew of B's brother. Likewise, D becomes the grandson of A but not of B.

If C was adopted as a *dwyámushyáyana* son, he becomes the son of A, but continues to be the son of B as well. He also becomes the grandson of A's father and the nephew of A's brother, but continues as well to be the grandson of B's father and the nephew of B's brother. Likewise, D becomes the grandson of A, and of B as well.

If C was adopted as a *kritrima* son, he becomes the son of A while continuing to be the son of B as well. He does not, however, become the grandson of A's father or the nephew of A's brother, but remains the grandson of B's father and the nephew of B's brother. D on birth becomes the grandson of B and not of A.

3. Application of Act—This Act regulates the succession to the heritable property of a person to whom this Act applies, other than one governed by the Marumakkattayam, Aliasantana or Nambudri law of inheritance, dying intestate after the commencement of this Act, in the following cases, namely:—

(a) where the property is movable property, unless it is proved that the intestate was not domiciled in British India at the time of death.

(b) where the property is immovable property situated in British India, whether at the time of death the intestate was domiciled in British India or not:

* * * *

Provided * that upon the death of any woman who at the commencement of this Act had the limited estate known as the Hindu woman's estate in any heritable property, such

property shall devolve on the persons who would under this Act have been the heirs of the last full owner thereof if he had died intestate immediately after her.

Succession to the property of males

4. *Devolution of heritable property of males*—The heritable property of a male intestate shall devolve according to the rules laid down in this Act—

- (a) upon the enumerated heirs referred to in section 5, if any;
- (b) if there is no enumerated heir, upon his agnates, if any;
- (c) if there is no agnate, upon his cognates, if any;
- (d) if there is no cognate, upon the heirs referred to in section 10, if any.

5. *Enumerated heirs*—The following relatives of an intestate are his enumerated heirs:—

*Class I—Parent, widow, * descendants and widow of descendant:—*

- (1) Parents if dependant on the intestate, widow, son, daughter, son and widow of a pre-deceased son, and son of a pre-deceased son of a pre-deceased son (the heirs in this entry being hereinafter in this Act referred to as "simultaneous heirs").
- (2) Daughter's son.
- (3) Son's daughter.
- (4) Daughter's daughter.

Class II—Mother, father and his descendants:—

- (1) Mother unless, as dependent on the intestate, she has inherited as an heir included in entry (1) of Class I.
- (2) Father unless, as dependent on the intestate, he has inherited as an heir included in entry (1) of Class I.
- (3) Brother.
- (4) Brother's son.
- (5) Brother's son's son.
- (6) Sister.
- (7) Sister's son.
- (8) Brother's daughter.
- (9) Sister's daughter.

Class III—Father's mother, father's father and his descendants:—

- (1) Father's mother.
- (2) Father's father.
- (3) Father's brother.
- (4) Father's brother's son.
- (5) Father's brother's son's son.
- (6) Father's sister's son.

Class IV—Father's father's mother, father's father's father and his descendants:—

- (1) Father's father's mother.
- (2) Father's father's father.
- (3) Father's father's brother.
- (4) Father's father's brother's son.
- (5) Father's father's brother's son's son.
- (6) Father's father's sister's son.

Class V—Mother's mother, mother's father and his descendants:—

- (1) Mother's mother.
- (2) Mother's father.
- (3) Mother's brother.
- (4) Mother's brother's son.
- (5) Mother's brother's son's son.
- (6) Mother's sister's son.

6. *Order of succession among enumerated heirs*—Among the enumerated heirs, those in one Class shall be preferred to those in any succeeding Class; and within each Class, those included in one entry shall be preferred to those included in any succeeding entry, while those included in the same entry shall take together.

Illustrations

(i) The surviving relatives of an intestate are his widow, his mother and his father's father. The widow who is included in Class I is preferred to the mother who is in Class II and the father's father who is in Class III.

(ii) The surviving relatives are two daughters and a son's daughter. The daughters who are included in entry (1) of Class I are preferred to the son's daughter who is in entry (3) of the same Class, and the two daughters take together.

(iii) The surviving relatives are a widow, two sons, three daughters, two grandsons by a pre-deceased son and a great-grandson by another pre-deceased son's pre-deceased son. All of them, being enumerated heirs included in entry (1) of Class I, succeed simultaneously, no one excluding the others.

7. *Manner of distribution among simultaneous heirs*—The distribution of an intestate's property among the simultaneous heirs in entry (1) of Class I shall take place according to the following rules, namely:—

(a) The intestate's widow, or if there is more than one widow all the widows together, shall take one share.

(b) Each son of the intestate shall take one share, whether he was undivided or divided from, or re-united with, the intestate.

(c) Sons, sons of pre-deceased sons, and sons of pre-deceased sons of pre-deceased sons, shall take *per stirpes*, that is to say, the sons of a pre-deceased son shall take the share which would have been taken by him if he had been alive at the time of the intestate's death; and likewise, the grandsons of a pre-deceased son shall take the share which their father would have taken if he had been alive at the time aforesaid.

(d) Each of the intestate's daughters shall take half a share, whether she is unmarried, married or a widow; rich or poor; and with or without issue or possibility of issue.

(e) Each parent shall take one-eighth of a share; but any property so inherited shall on his or her dying intestate devolve upon the heirs of the intestate son from whom the property was so inherited in the same order and according to the same rules as would have applied if the property had been his and he had died intestate in respect thereof at the time of the parent's death.

(f) The widow of a pre-deceased son, if she has no son or son's son surviving, shall take half the share which her husband would have received if he had been alive at the time of his father's death, and if she has a son or son's son surviving she shall take one-fourth of the share which her husband would have received if he had been alive at the time of his father's death, and the son or grandson's share receivable under clause (c) of this section shall be reduced accordingly.

Illustrations

(i) The surviving relatives of an intestate are three sons' five grandsons by a pre-deceased son, and two great-grandsons by a pre-deceased son of another pre-deceased son. Each son takes 1/5th of the heritable estate, each grandson 1/25th, and each great-grandson 1/10th.

(ii) Only a widow or daughter, and no other simultaneous heir, survives an intestate. The widow or daughter, as the case may be, takes the whole of the heritable estate.

(iii) The surviving relatives of an intestate are two widows, a divided son, two undivided sons, an unmarried daughter, two married daughters, a widowed daughter, and four grandsons by a pre-deceased son. The two widows together take one share, each of the three sons takes one share, each of the four daughters takes half a share, and the four grandsons together take one share. Thus, each widow takes 1/14th of the heritable estate, each son 1/7th, each daughter 1/14th, and each grandson 1/28th.

8. *Order of succession among non-enumerated heirs*—

(1) The order of succession among agnates and cognates, other than enumerated heirs, shall be determined by applying the Rules of Preference in section 9.

(2) For the purpose of applying the said Rules, relationship shall be reckoned from the intestate to the heir in terms of degrees of ascent, or degrees of descent, or both, as the case may be.

(3) Degrees of ascent and degrees of descent shall be computed in the manner indicated in the illustrations below:—

Illustrations

(i) The heir to be considered is the father's mother's father of the intestate. He has no degrees of descent but three degrees of ascent represented, in order, by (1) the intestate's father, (2) that father's mother, and (3) her father (the heir).

(ii) The heir to be considered is the father's mother's father's mother of the intestate. She has no degrees of descent, but four degrees of ascent represented, in order, by (1) the intestate's father, (2) that father's mother, (3) her father, and (4) his mother (the heir).

(iii) The heir to be considered is the son's daughter's son's daughter of the intestate. She has no degrees of ascent, but four degrees of descent represented, in order, by (1) the intestate's son, (2) that son's daughter, (3) her son, and (4) his daughter (the heir).

(iv) The heir to be considered is the mother's father's father's daughter's son of the intestate. He has three degrees of ascent represented, in order, by (1) the intestate's mother, (2) her father, and (3) that father's father, and two degrees of descent represented, in order, by (1) the daughter of the common ancestor, *viz.*, the mother's father's father, and (2) her son (the heir).

(4) A woman shall be entitled to inherit as an agnate of her father and his agnates, and shall not, by reason only of her marriage, be entitled to inherit as an agnate of her husband or his agnates.

9. *Rules of Preference*—The Rules of Preference referred to in section 8 are as follows:—

Rule 1—Of two heirs the one who has fewer or no degrees of ascent is preferred.

Rule 2—Where the number of degrees of ascent is the same or none, that heir is preferred who has fewer or no degrees of descent.

Rule 3—Where the number of degrees of descent is also the same or none, the heir who is in the male line is preferred to the heir who is in the female line at the first point (counting from the intestate to the heir) where the lines of the two heirs can be so distinguished.

Rule 4—Where neither heir is entitled to be preferred to the other under the foregoing Rules, they take together.

Illustrations

In the following illustrations, the letters F and M stand respectively or the father and the mother in that portion of the line which ascends from the intestate to the common ancestor, and the letters S and D for the son and the daughter respectively in that portion of the line which descends from the common ancestor to the heir. Thus MFSS stands for the intestate's mother's father's son's son (mother's brother's son), and FDS for the intestate's father's daughter's son (sister's son).

(i) The competing heirs are (1) FFSD (father's brother's daughter) and (2) FIDS (sister's daughter's son). Although No. (2) is descended from a nearer ancestor yet, as No. (1) is an agnate while No. (2) is only a cognate, No. (1) is preferred to No. (2).

(ii) The competing heirs are (1) SDSS (son's daughter's son's son) and (2) FDDS (sister's daughter's son). No. (1) who has no degree of ascent is preferred to No. (2) who has one degree of ascent.

(iii) The competing heirs are (1) FDDD (sister's daughter's daughter) and (2) MFSD (maternal uncle's daughter). The former who has one degree of ascent is preferred to the latter who has two such degrees.

(iv) The competing heirs are (1) FDSSS (sister's son's son's son) and (2) MFSSD (maternal uncle's son's daughter). The former who has only one degree of ascent is preferred to the latter who has two such degrees.

(v) The competing heirs are (1) MFDSS (mother's sister's son's son) and (2) MFFDS (mother's father's sister's son). The former who has two degrees of ascent is preferred to the latter who has three such degrees.

(vi) The competing heirs are (1) MFM (mother's father's mother) and (2) FFFDSS (father's father's sister's son's son). The number of degrees of ascent in both cases is the same, viz., three, but the former has no degree of descent while the latter has three such degrees. The former is therefore preferred.

(vii) The competing heirs are (1) FMF (father's mother's father) and (2) MFF (mother's father's father). The number of degrees of ascent in both cases is the same, and there are no degrees of descent. The lines of the two heirs diverge at the very first point, No. (1) being in the male line and No. (2) in the female line. No. (1) is preferred to No. (2).

(viii) The competing heirs are (1) FDSS (sister's son's son) and (2) FDDS (sister's daughter's son). The heirs are equally near both in ascent and descent. The dissimilarity in the lines occurs at the third point. At this point No. (1) is in the male line and No. (2) in the female line. No. (1) is therefore preferred.

(ix) The competing heirs are (1) FMFSS (father's brother's son) and (2) FMFDS (father's mother's sister's son). The former is preferred.

(x) The competing heirs are (1) FDDS (sister's daughter's son) and (2) FDDD (sister's daughter's daughter). The former is preferred.

(xi) The competing heirs are a daughter's daughter's son of one sister (FDDDS) and a daughter's daughter's son of another sister (FDDDS). Both of them take the estate in equal shares.

10. Heirs not related by blood—If there is no cognate entitled to succeed under section 4, the heritable property of the intestate shall devolve, in the first instance, upon his preceptor (*āchārya*); if there is no preceptor, upon the intestate's disciple (*śishya*); and if there is no disciple, upon the intestate's fellow-student (*sa-brahmachari*).

11. Rules for hermits, etc.—(1) Where a person completely and finally renounces the world by becoming a hermit (*vānaprastha*), an ascetic (*yati* or *sanyāsi*), or a perpetual religious student (*naiśthika brahmachari*), his property shall devolve upon his heirs, in the same order and according to the same rules as would have applied if he had died intestate in respect thereof at the time of such renunciation.

(2) Any person who has so renounced the world shall not inherit to any relative of his, by blood or marriage, but the inheritance shall, in such a case, pass to the heir who is next in the order of succession.

(3) Any property acquired by such a person after his renunciation shall, on his death, devolve, not upon his relatives by blood or marriage, but as follows:—

(a) in the case of a hermit, upon a spiritual brother belonging to the same hermitage (*dharmabhrātraikalirthi*);

(b) in the case of an ascetic, upon his virtuous disciple (*sacchishya*);

(c) in the case of a perpetual religious student, upon his preceptor (*āchārya*).

Stridhana

12. Right of woman over stridhana—A woman shall have the same rights over her *stridhana*, including the right to dispose of it by transfer *inter vivos* or by will, as a man has over property acquired by him in the like manner, that is to say, a woman's rights over her *stridhana* shall not be deemed to be restricted in any respect whatsoever, by reason only of her sex.

13. Order of succession to stridhana—The *stridhana* of a woman dying intestate, in so far as it consists of heritable property, shall devolve as follows:—

(a) Property inherited by her from her husband or his father, his father's father or his father's father's father shall devolve upon her husband's heirs in the same order and according to the same rules as would have applied if the property had been her husband's and he had died intestate in respect thereof immediately after her death.

Explanation—For the purposes of this clause, property devolving on another widow of the husband, whether under this clause or under entry (9) in clause (b), shall be deemed to be property inherited by such widow from her husband.

(b) Other property shall devolve upon the following relatives of the intestate, in the order mentioned, namely:—

- (1) Son and daughter;
- (2) Daughter's son and daughter's daughter;
- (3) Son's son and son's daughter;
- (4) Husband;
- (5) Mother;
- (6) Father;

(7) Husband's heirs, in the same order and according to the same rules as would have applied if the property had been his and he had died intestate in respect thereof immediately after his wife's death;

(8) Mother's heirs, in the same order and according to the same rules as would have applied if the property had been hers and she had died intestate in respect thereof immediately after her daughter's death;

(9) Father's heirs, in the same order and according to the same rules as would have applied if the property had been his and he had died intestate in respect thereof immediately after his daughter's death.

(c) Where of two or more heirs of the intestate, no one is entitled to be preferred to any other under the provisions of this section, they shall take together, a son, daughter's son or son's son taking half as much only as his sister.

14. Stirpital succession to stridhana in certain cases—If the *stridhana* of a woman devolves on two or more of the following relatives, namely, daughters' sons and daughters or sons' sons and * daughters, they shall take it *per stirpes* and not *per capita*.

Illustration

The surviving relatives of a woman are four grand-daughters by one daughter, A, and three grand-daughters by another daughter, B. Each of A's daughters takes 1/8th of the property and each of B's daughters takes 1/6th.

General Provisions

15. Full blood preferred to half blood—Heirs related to an intestate by the full blood shall be preferred to heirs related by the half blood, if the nature of the relationship is the same in every other respect.

Illustrations

(i) A brother by the full blood is preferred to a brother by the half blood; but a brother by the half blood, succeeds before a brother's son by the full blood, a brother being a nearer heir than a brother's son.

(ii) A paternal uncle by the half blood is preferred to a paternal uncle's son by the full blood, an uncle being a nearer heir than an uncle's son.

(iii) A full brother's daughter's daughter is preferred to a half brother's daughter's daughter; but the former is not preferred to a half brother's daughter's son, as the nature of the relationship is not the same in the two cases. The latter, who is a nearer heir by virtue of Rule 3 in section 9, is preferred though he is only of the half blood.

16. Right of child in womb—A person who was in the womb at the time of the death of an intestate and who is subsequently born alive shall have the same right to inherit to the intestate as if he or she had been born before the death of the intestate.

17. Rights of surviving spouse and descendants of a valid marriage—The surviving spouse and descendants of a valid marriage contracted by a male or female Hindu outside his or her caste shall, for all the purposes of this Act, be treated in like manner as the surviving spouse and descendants of a valid marriage contracted within his or her own caste.

18. Disqualification of widow who was unchaste during husband's lifetime—If an intestate's widow has been unchaste during his lifetime and after her marriage, she shall, unless the unchastity has been condoned by her husband, be disqualified from succeeding to his heritable property, and it shall devolve on his other heirs as it would in her absence:

Provided that the right of a widow to inherit to her husband shall not be questioned on the ground aforesaid, unless—

a Court of Law has found her to have been unchaste as aforesaid in a proceeding to which she and her husband were parties and in which the matter was specifically in issue, the finding of the Court not having been subsequently reversed.

19. Murderer disqualified—A person who commits murder or abets the commission of murder in furtherance of his or her succession to any property shall be disqualified from inheriting such property; and the inheritance shall, in such a case, pass to the heir who is next in the order of succession.

20. Disease, defect, etc., not to disqualify—No person shall be disqualified from succeeding to any property on the ground of any disease, defect or deformity or, save as provided in sub-section (2) of section 11 and sections 18 and 19, on any other ground whatsoever.

21. Mode of succession of two or more heirs—If two or more heirs succeed together to the property of any intestate, they shall take the property—

(a) save as otherwise expressly provided in this Act, *per capita* and not *per stirpes*; and

(b) as tenants in common, and not as joint tenants.

22. Escheat—If the intestate has left no heir, or no heir qualified to succeed to his or her heritable property, such property shall go to the Crown.

23. Repeals—The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

THE SCHEDULE

(See Section 23)

Year	No.	Short title	Extent of repeal
1	2	3	4
1928	XII ..	The Hindu Inheritance (Removal of Disabilities) Act, 1928.	The whole
1929	II ..	The Hindu Law of Inheritance (Amendment) Act, 1929.	The whole
1937	XVIII ..	The Hindu Women's Rights to Property Act, 1937.	Section 3, sub-section (1).

The 9th February 1944

No. 586—III-9 44-L.—The following Bill of the Central Legislative Assembly is republished for general information.

Any person or Public Body desiring to submit an opinion on the Bill should do so through the Provincial Government only and that any opinion thereon which is submitted direct to the Central Legislative Assembly Department or to any other Department of the Government of India will not be accepted.

By order of the Governor

W. W. DALZIEL

Secretary to Government

[As introduced in the Legislative Assembly]

A

BILL

further to amend the Indian Trade Unions Act, 1926

WHEREAS it is expedient further to amend the Indian Trade Unions Act, 1926 (XVI of 1926), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement—(1) This Act may be called the Indian Trade Unions (Amendment) Act, 1943.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Amendment of the long title of Act XVI of 1926—In the long title of the Indian Trade Unions Act, 1926 (XVI of 1926) (hereinafter referred to as the said Act), after the

word "registration" the words "and recognition" shall be inserted, and after the word "registered" the words "and recognised" shall be inserted,

3. Amendment of the preamble to Act XVI of 1926—In the preamble to the said Act, after the word "registration" the words "and recognition" shall be inserted, and after the word "registered" the words "and recognised" shall be inserted.

4. Amendment of section 2, Act XVI of 1926—In section 2 of the said Act,—

(a) after the words "the appropriate Government" means' the words, figure and letter "subject to the provisions of section 28A" shall be inserted;

(b) clause (a) shall be relettered as clause (aa), and, before clause (aa) as so relettered, the following clause shall be inserted, namely:—

'(a) "Board" means in relation to a Trade Union or a Board of Recognition appointed by the appropriate Government under sub-section (1) of section 28B';

(c) after clause (c), the following clause shall be inserted, namely:—

'(cc) "Recognised Trade Union" means a Trade Union recognised under this Act';

5. Insertion of new Chapter IIIA in Act XVI of 1926—After Chapter III of the said Act, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA.

Recognition of Trade Unions and Rights and Liabilities of recognised Trade Unions

28A. Modification of the definition of 'the appropriate Government' for certain purposes—Notwithstanding anything to the contrary in the definition of 'the appropriate Government' in section 2, the Central Government shall be deemed to be the appropriate Government for the purposes of this Chapter in respect of Trade Unions consisting of workmen employed by the Central Government or by a Federal Railway or in a major port.

Explanation—In this section and for the purposes of this Chapter, a Trade Union of which not less than seventy per cent. of the members are workmen employed by the Central Government or by a Federal Railway or in a major port, shall be deemed to be a Trade Union consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, respectively.

28B. Appointment and constitution of Boards of Recognition.—(1) The appropriate Government may appoint a Board of Recognition consisting of one representative of such Government, one representative of employers and one representative of workmen.

(2) The procedure for the selection of the representatives referred to in sub-section (1) shall be such as may be prescribed.

(3) The business of and before Boards appointed under sub-section (1) shall be regulated and conducted in such manner as may be prescribed.

28C. Application for recognition—(1) The executive of a Trade Union may make an application for the recognition of the Trade Union under this Act to the Board or if no Board has been appointed, to the Registrar.

(2) Every application under sub-section (1) shall be accompanied by a statement furnishing the prescribed particulars.

28D. Conditions for recognition—(1) A Trade Union shall not be entitled to recognition under this Act, unless it fulfils the following conditions, namely:—

(a) that all its members are workmen employed in one and the same industry;

(b) that it is, and has been for at least twelve months prior to the date of the application for recognition, a registered Trade Union and that it has complied with all the provisions of this Act;

(c) that its rules do not provide for the exclusion of members on communal or religious grounds;

(d) that its executive meets at least once a quarter;

(e) that it is a representative Trade Union;

(f) that it has applied for recognition to the employer not less than three months prior to the date of the application to the Board or the Registrar for recognition;

(g) any further conditions that may be prescribed.

(2) No Trade Union shall be deemed to be a representative Trade Union for the purposes of clause (e) of sub-section (1) unless it satisfies such conditions as may be prescribed.

28E. Power of Registrar and the Board.—(1) The Board or the Registrar, as the case may be, may call for further information for the purpose of ascertaining whether the Trade Union concerned is entitled to recognition under

section 28D and if a Trade Union fails to supply the required information within the prescribed period, its application for recognition shall be deemed to have been withdrawn.

(2) The Board or the Registrar, as the case may be, shall investigate whether the Trade Union fulfils the conditions laid down in section 28D for recognition, and shall forward the application to the appropriate Government with a report and a recommendation regarding the grant or withholding of recognition.

28F. *Grant and withdrawal of recognition.*—(1) On receipt of the application for recognition and the report referred to in sub-section (2) of section 28E, the appropriate Government, if satisfied that the Trade Union is fit to be recognised, may, by notification in the official Gazette, declare the Trade Union to be a recognised Trade Union.

(2) Recognition granted to a Trade Union under sub-section (1) shall be withdrawn by the appropriate Government by notification in the official Gazette, if such Government is satisfied that—

(a) a member or members of the Trade Union has or have taken part in an illegal strike, or

(b) members of the executive have advised or actively supported an illegal strike or any propaganda directed against the efficient prosecution of war.

(3) If, after considering a report from the Board of Registrar, the appropriate Government is satisfied that a Trade Union has ceased to be representative or has become unfit for recognition for any reason other than a reason specified in sub-section (2), such Government may, in its discretion, by notification in the official Gazette, withdraw the recognition previously granted to the Trade Union under sub-section (1).

(4) No notification withdrawing recognition from a Trade Union shall be issued under sub-section (2) or sub-section (3) unless the Trade Union concerned has been given

a reasonable opportunity of showing cause against the withdrawal.

28G. *Rights of a recognised Trade Union.*—(1) The executive of a recognised Trade Union shall be entitled to negotiate with the employer in respect of matters affecting the common interests of the members of the Trade Union, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, matters affecting the interests of the members of the Union.

(2) Nothing in this section shall be construed as requiring an employer to send replies to letters on, or grant interviews regarding, matters on which, as a result of previous discussion with the Union or the members thereof the employer has arrived at a conclusion whether in agreement with the executive or not.

(3) Any dispute between the employer and the executive as to whether a conclusion has been arrived at within the meaning of sub-section (2) shall be referred to the Registrar whose decision shall be final.

28H. *Returns.*—Every recognised Trade Union shall submit to the Registrar, at the prescribed time and in the prescribed manner, such returns, in addition to those referred to in section 28, as may be prescribed.

28I. *Power of Central Government to give directions.*—The Central Government may give directions to a Provincial Government as to the regulations to be made in exercise of the power conferred by sub-section (2) of section 28B or clause (g) of sub-section (1) or sub-section (2) of section 28D.

28J. The provisions of this Chapter shall not, until the termination of the hostilities in being at the commencement of the Indian Trade Unions (Amendment) Act, 1943, apply to any Trade Union consisting of workmen employed by or under the Crown or by a Federal Railway or in a

major part, unless the Central Government by notification in the official Gazette so directs in the case of any specified Trade Union".

6. Amendment of section 31, Act XVI of 1926—To section 31 of the said Act, the following sub-section shall be added, namely :—

"(3) The provisions of sub-section (1) and sub-section (2) shall apply also to defaults in submitting and to false entries in and omissions from any returns required to be submitted under section 28H."

7. Insertion of new section 32A in Act XVI of 1926—After section 32 of the said Act, the following section shall be inserted, namely :—

"32A. *Failure by employer to comply with section 28G(1)*—Any employer who fails to comply with the provisions of sub-section (1) of section 28G shall be punishable with fine which may extend to five hundred rupees."

STATEMENT OF OBJECTS AND REASONS

Trade disputes often occur or are prolonged because an employer refuses to recognise a trade union of his workmen.

The Royal Commission on Labour considered the question of the recognition of trade unions and gave the reasons for which employers were not inclined to recognise unions. These were that the union embraced only a minority of workers; that another union was already in existence; that the union had refused to dispense with the services of a particular official; that outsiders had been included in the executive; or that the union had failed to register under the Trade Unions Act. The Commission discussed these reasons and showed why all, except the last, were invalid. Deprecating obligatory recognition it pleaded for recognition in the spirit as well as in the letter and expressed the view that "recognition may mean much,

but it may mean nothing. No law can secure that genuine and full recognition which we desire to see."

The position has not much improved since the Royal Commission completed its report and it is felt that the time has now come when the compulsory recognition of trade unions must be provided for by legislation. With all its limitations recognition by statute will at least clarify the position and give organised and well conducted trade unions the status they deserve. It may achieve much more.

The present Bill provides for the compulsory recognition of trade unions under certain conditions and defines what recognition will imply. Power is taken to set up tripartite Boards of Recognition which will report on the representativeness of trade unions and their fitness to be recognised. The main conditions of recognition will be that the trade union must have been a registered union for 12 months and that it must have previously applied to the employer concerned for recognition. Unions formed on a communal or sectarian basis will not be eligible for recognition. Besides laying down the basic conditions required for recognition, the Bill allows for additional conditions to be imposed by the appropriate Government and power is given to the Central Government to issue directions to Provincial Governments in this matter.

Recognition will be granted or withdrawn by the appropriate Government after receiving a report from the Board of Recognition, where one is appointed, or, in other cases from the Registrar. Recognition will entitle a union to negotiate with the employer in respect of matters affecting the common interests of its members. The Bill also states the obligations of employers consequent on recognition.

NEW DELHI
The 28th October 1943

B. R. AMBEDKAR