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PART VI.

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

A

BILL

*Further to amend the Trade Disputes Act,
1929, for certain purposes.*

WHEREAS it is expedient further to amend
VII of 1929. the Trade Disputes Act, 1929, for the
purposes hereinafter appearing; It is hereby
enacted as follows:—

1. This Act may be called the Trade
Disputes (Amendment)
Short title. Act, 1936.

2. In section 2 of the Trade Disputes
VII of 1929. Act, 1929 (hereinafter
referred to as the said
Amendment of section
2, Act VII of 1929. Act),—

(a) in clause (g),—

(i) after sub-clause (i), the following
sub-clause shall be inserted,
namely:—

“(ia) any inland steam-vessel ser-
vice or tramway service which
the Local Government may, by
notification in the local official
Gazette, declare to be a public
utility service for the purposes
of this Act; or”; and

(ii) in sub-clause (iii), after the word
“supplies” the word “power”
shall be inserted;

(b) in clause (f), after the word
“difference” the words “between
employers and employers or” shall
be inserted; and

(c) in clause (k), after the word
“reward” the following words shall
be inserted, namely:—

“notwithstanding that such person
has been discharged by the
employer if the discharge is
made during a strike or during a
dispute preceding a strike”.

Amendment of section 3. In section 3 of the
3, Act VII of 1929. said Act,—

(a) the words “between an employer
and any of his workmen” shall be
omitted; and

(b) for the words “the employer” the
words “an employer concerned”
shall be substituted.

4. For sub-section (2) of section 4 of the
said Act the following
sub-section shall be
substituted, namely:—

Amendment of section
4, Act VII of 1929.

“(2) A Court, having the prescribed
quorum, may act notwithstanding
the absence of the chairman or any
of its members:

Provided that if the services of the
chairman cease to be available the
Court shall not act until a new
chairman has been appointed.”

5. For sub-section (3) of section 6 of the said Act the following sub-section shall be substituted, namely:—

Amendment of section 6, Act VII of 1929.

“(3) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members:

Provided that if the services of the chairman or where the Board includes an equal number of persons representing the parties to the dispute the services of any such person cease to be available the Board shall not act until a new chairman or member, as the case may be, has been appointed”.

6. To section 10 of the said Act the following sub-section shall be added, namely:—

Amendment of section 10, Act VII of 1929.

“(3) Where a Board includes an equal number of persons representing the parties to the dispute, and the services of any such person cease to be available as aforesaid, the appointing authority shall appoint in the manner specified in sub-section (2) of section 6 another person to take his place, and the proceedings shall be continued before the Board so reconstituted.”

Amendment of section 5, Act VII of 1929.

7. In section 15 of the said Act,—

(a) in sub-section (2),—

(i) for the words “his workmen” the words “any of his workmen” shall be substituted;

(ii) for the words “liable to” the words “punishable with” shall be substituted; and

(iii) for the words “to a fine” the words “with fine” shall be substituted;

(b) after sub-section (2) the following sub-section shall be inserted, namely:—

“(2A) When an employer receives from any person employed by him the notice referred to in sub-section (1) or gives to any person employed by him the notice referred to in sub-section (2), he shall within three days from the receipt or the giving of such notice, as the case may be, report the fact to the Local Government, and, if he fails to

do so, shall be punishable with fine which may extend to five hundred rupees”; and

(c) in sub-section (3), for the words, brackets and figure “under sub-section (2)” the words, brackets and figures “under sub-section (2) or sub-section (2A)” shall be substituted.

8. For section 16 of the said Act the following section shall be substituted, namely:—

Substitution of new section for section 16, Act VII of 1929.

“16. The Governor General in Council, in respect of illegal strikes and lock-outs, industries, businesses and undertakings carried on by him or under his authority or a railway company, and the Local Government, in respect of other businesses, industries or undertakings within their respective Provinces, may, if satisfied that a trade dispute has caused, is causing or is likely to cause serious and prolonged injury or hardship to the community or any section of the community or to employers or workmen generally or to any class of employers or workmen, by notification in the Gazette of India or the local official Gazette, as the case may be, declare that for a period of two months from the date of the notification any strike or lock-out then in being or thereafter taking place which has or professes to have as one of its objects the furtherance of that trade dispute is an illegal strike or lock-out:

Provided that no such notification shall be issued unless on or before the date of issue the Governor General in Council or the Local Government, as the case may be, has made an order under section 3 referring the trade dispute in question to a Court of Inquiry or a Board of Conciliation”.

9. In sub-section (1) of section 17 of the said Act, for the word “declares” the words “commences, continues,” shall be substituted and for the words “which is illegal” the words “which is declared to be illegal” shall be substituted.

Amendment of section 17, Act VII of 1929.

10. In sub-section (1) of section 18 of the said Act, for the words “which is illegal” the words “which is declared to be illegal” shall be substituted.

Amendment of section 18, Act VII of 1929.

11. After section 18 of the said Act the following heading and section shall be inserted, namely:—

Insertion of new heading and section 18A in Act VII of 1929.

“Conciliation Officers.

18A. (1) The Governor General in Council, in respect of industries, businesses and undertakings carried on by him or under his authority or by a railway company, and the Local Governments, in respect of other businesses, industries or undertakings within their respective Provinces, may, by notification in the Gazette of India or the local official Gazette, as the case may be, appoint officers, herein referred to as conciliation officers, charged with the duty of preventing, mediating in or settling trade disputes.

- (2) A conciliation officer may be appointed for a specified area or for specified businesses, industries or undertakings in a specified area or for one or more specified businesses, industries or undertakings and either permanently or for a limited period.
- (3) A conciliation officer may, for the purposes of inquiring into an existing or apprehended trade dispute after giving reasonable notice, enter the premises occupied by any industry, business or undertaking and may call for and inspect any document which he considers it necessary to inspect, and for the purposes of any such inquiry shall be deemed to be a public servant within the meaning of the Indian XLV of 1860 Penal Code.
- (4) The powers, functions and procedure of conciliation officers shall be such as may be prescribed by rules made under section 19”.

STATEMENT OF OBJECTS AND REASONS.

The Trade Disputes Act was passed in 1929, originally for a period of five years, and was converted into a permanent measure in 1934. It was reviewed by the Royal Commission on Labour and was criticized in certain minor respects by two Courts of Inquiry appointed under it. The proposals

contained in the Bill represent the changes which, in the light of experience gained of its working and the opinions expressed upon it, appear to be desirable. The changes of substance are discussed in the Notes on Clauses.

F. NOYCE.

SIMLA : the 20th August 1936.

NOTES ON CLAUSES.

Clause 2, sub-clause (a).—In certain areas inland steamer services are indispensable means of communication, while power plants are essentially public utility services.

Sub-clause (b).—At present "trade dispute" includes disputes between employers and workmen or between workmen and workmen. But the main provisions relating to conciliation are limited to the former class of dispute and nothing in the Act applies to disputes between employers and employers. Serious stoppages of work occur at times as a result of differences between workmen and workmen and it may be useful to enable the machinery of the Act to be used in the case of disputes between employers and employers which threaten to interfere with trade and employment.

Sub-clause (c).—With the present definition, it is arguable that discharged strikers have ceased to be workmen, and that in consequence the main provisions of the Act cease to be applicable to disputes with men so discharged. The amendment is designed to make it clear that such men are, despite their discharge, workmen for the purpose of the Act.

Clause 3.—The amendments are consequential on the amendment in clause 2 (b); the alteration in wording in the second amendment includes the case where there is more than one employer.

Clauses 4, 5 and 6.—The Railway Court of Inquiry of 1931-32 considered that the Act rendered the presence of the Chairman necessary at every sitting and recommended amendment. These amendments make it clear that the Chairman need not be present at every sitting.

Clause 7.—The amendment to sub-section (2) of section 15 is designed to make it clear that it is not necessary, to constitute an

offence under the clause, for an employer to lock out all his workmen without due notice; a partial lock-out should also be punishable.

The new sub-clause (2A) is intended to assist the Local Government to decide promptly whether their intervention under section 3 of the Act is necessary by ensuring that the threat of a stoppage is brought to their notice.

Clauses 8, 9 and 10.—The present section 16 is framed in terms which, as experience has indicated, render it of little value for the protection of the community. 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 recognized that those taking direct part in a dispute of this character may have genuine grievances; and it is proposed to ensure that when a strike or lock-out is declared illegal, steps will be taken to have the claims of the parties investigated. The proposed section 16 accordingly provides that any declaration of a lock-out or strike as illegal must be accompanied by the reference of the dispute to a Court of Inquiry or Board of Conciliation; and the period for which the declaration of illegality subsists is limited to two months. The changes in sections 17 and 18 are consequential.

Clause 11.—As the Royal Commission on Labour observed "the heavy artillery of the Trade Disputes Act" as it now stands is not suitable for use in the earlier stages of a dispute; but it is at these stages that conciliation can be most useful. The new section is designed to facilitate the appointment and the work of Conciliation Officers who will not be responsible, as Courts of Inquiry and Boards of Conciliation are merely for the investigation and settlement of disputes but will be charged with the duty of preventing disputes.