

**JOINT/SELECT
COMMITTEE REPORT
LEGISLATIVE
ASSEMBLY**

1929

The Trade Disputes Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1929.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks
1.	The Public Safety Bill.	20.2.29.	
2.	The Workmen's Compensation(Amendment) Bill.	26.2.29.	
3.	The Indian Income-tax(Amendment) Bill(Sec.2,23.etc.)	26.2.29.	
4.	The Trade Disputes Bill.	16.3.29.	
5.	The Reservation of the Coastal Traffic of India Bill by Mr.S.N.Haji.	2.4.29.	
6.	The Transfer of Property(Amendment) Bill.	2.9.29.	
7.	The Transfer of Property(Amendment Supplementary Bill.	2.9.29.	
8.	The Indian Income-tax (Provident Fund Relief)Bill.	16.9.29.	
9.	The Indian Patents and Designs(Amendment) Bill.	25.9.29.	

LEGISLATIVE ASSEMBLY DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to make provision for the investigation and settlement of trade disputes, and for certain other purposes was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Papers Nos. I—IX. the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. The Committee held meetings on the 22nd, 24th and 28th of February and the 8th, 9th and 10th of March and, as the result of prolonged discussions, have made a number of amendments in the Bill which we now proceed to explain in detail.

Clause 1.—We have decided to limit the duration of the Act to five years.

Clause 2.—The slight amendment which we have made in sub-clause (c) is intended to bring out more clearly the fact that the definition of "employer" is not intended to be exhaustive.

In view of the provision which we have made in clause 4 that all the members of a Court of Inquiry shall be persons unconnected with the dispute or with any industry affected thereby, we have considered it desirable to give some definition of what we mean by the expression "an independent person", and have inserted a definition accordingly in clause (d) of this clause.

Sub-clause (f) [now sub-clause (g)].—We are of opinion that a wide power enabling the Government to declare any industry, business or undertaking to be a public utility service is undesirable as well as unnecessary, and we have therefore omitted it. After considerable discussion in regard to the question of specifying certain other industries or undertakings as public utility services, we have reached the conclusion that clauses (i), (ii), (iii) and (iv) of this sub-clause as it stands comprise all the services which it is essential to specify in the first place, and, in view of the fact that the general power which the Bill as introduced conferred upon the Government was only exercisable after three months' notice, we think there should be no difficulty in providing for any necessary additions to the clause by an amendment of the Act should occasion arise.

Sub-clause (j) [now sub-clause (k)].—We have amplified the definition of "workman" on the lines of the similar definition in the Canadian Act, and at the same time made it clear that the expression includes clerical workers; and we have added the Royal Indian Marine Service to the Services which the Bill excludes from its scope.

Clause 3.—We have considered various proposals designed to lay upon the Government a definite obligation to convene a Court of Inquiry or a Board of Conciliation in cases where one of the parties so required. We think, however, that, unless both parties are agreed in desiring a reference, it would be useless to fetter the discretion of the Government as to the time at which the matter is ripe for action under this clause. At the same time, we think that no option should be left to the Government to refuse to appoint a Court or Board where the Government is assured that both parties are agreed as to the necessity of a reference, as well as to the form which it should take.

Clause 4.—As already mentioned, we have provided that in every case a Court of Inquiry, whether it consists of one or of more persons, shall not include persons having an interest in the dispute or in any industry affected by it.

Clause 6.—We have made an amendment to sub-clause (2) to make clear the original intention which was that only persons appointed to a Board to represent the parties should be appointed on the recommendation of the parties; and we have made slight alterations in the proviso to sub-clause (3) in order to bring it into line with the wording of clause 10.

Clauses 7 and 9.—The amendments which we have made to these clauses are of a purely drafting nature.

Clause 10.—In view of the fact that members of Courts and Boards will now invariably be independent persons except in the case where a Board is composed of an independent chairman and an equal number of representatives of each party and that the case of a vacancy in the office of any such representative member is already dealt with in clause 6, clause 10 will now apply to independent members only, and we have amended it accordingly.

Clause 12.—We have amended this clause on the lines of the English Act to make it quite clear that every report of a Court or Board, whether a final or interim report, must be published, and that only the publication of such information or evidence as the appointing authority thinks fit should be left to its discretion.

Clause 14.—We consider it inadvisable to forbid the representation of parties before Courts and Boards by legal practitioners subject only to exceptions. As we have redrafted the clause, such representation will ordinarily be permissible, subject however to such conditions and restrictions as may be provided by rules.

Clause 15.—We have decided to accept the principle of this clause which however, as originally drafted, was open to certain criticisms. For example, it was pointed out that many persons are actually employed upon a daily wage which is in practice paid monthly; also that the clause would appear to penalise abstention from work on the part of a particular individual; and further that the clause is one-sided and inflicts no penalty upon an employer who locks out his workmen. The latter point is, we think, one which must certainly be met and as by the nature of his employment a casual or day-to-day labourer must be entitled to cease work at any moment and be similarly liable to dismissal, we agree that he should be excluded altogether from the operation of this clause. We have accordingly adopted a suggestion made by the Bombay Government which makes it clear that the cessation of work must be in the nature of a strike as defined in the Bill, and we have provided that, in order to render it a penal offence, the strike must be in breach of a definite contract between the employer and the workman; we have, further, made a collateral provision penalising an employer for locking out his workman in breach of any contract.

We have decided to omit sub-clause (2) of the Bill as introduced, which imposed a more severe penalty upon the abettor of an offence under sub-clause (1), as we think such persons can be sufficiently dealt with under the ordinary criminal law of abetment.

As regards sub-clause (3) [now sub-clause (4)], the point was taken that, where the employer is a Government department, the authority whose sanction would be necessary to enable a prosecution to be instituted would be the Government itself. A suggestion was accordingly made that where a trade union exists in

the affected industry, a special resolution of three-fourths of the members, confirmed by a similar resolution at a later period, should be sufficient warrant for the launching of a prosecution. We cannot, however, accept this as a satisfactory solution of what we feel is only a technical difficulty in view of the fact that many classes of prosecutions of Government servants can only be undertaken with the sanction of Government itself.

Clause 16.—We have adopted this clause, but with some amendments which we think will restrict its scope without materially impairing its effectiveness. Our attention has been particularly directed to the provisions of clause (b) of sub-clause (1), which, as drafted, we consider to be too wide and uncertain in its meaning. It is possible to hold that any strike inflicts a certain degree of hardship upon the community, and it would therefore be possible for a strike which fulfils both the conditions in (a) and (b) to be brought within this clause, although it was in the nature of a demonstration and lasted for no more than one day. The amendments which we suggest, apart from the omission in clause (a) of the words "or in addition to", accordingly make it clear that the strike or lock-out must be designed to cause really severe, general and prolonged hardship to the community for the purpose of compelling Government to take any particular action, whether in connection with the dispute or otherwise.

In sub-clause (2) we have made it clear that, for the application of money to be illegal it must not merely tend to further or support the strike, but have the direct effect of so doing. This is intended to exclude a case in which money is spent upon the relief of the dependants of strikers.

In sub-clause (3) we have borrowed a provision from the English Act of 1927 further explaining the circumstances in which a group of workmen should be deemed to be within the same trade or industry.

Clause 17.—We have somewhat modified the penalties provided for the instigation of an illegal strike.

Clause 18.—We have decided to omit this, as the provisions of section 17 of the Indian Trade Unions Act, 1926, will not apply in the case of an agreement to commit an offence, and therefore specific exclusion of the case of an illegal strike is not necessary. As regards section 18 of the Indian Trade Unions Act, this section only applies in the case of acts done in furtherance of a trade

dispute, and, if a genuine trade dispute forms part of the ground for any illegal strike, we think that no harm will be done by leaving the provisions of section 18 to operate in the case of registered trade unions.

Clause 20.—We think there is no sufficient justification for giving a power to the Government to apply for injunctions restraining the expenditure of the funds of a trade union in connection with an illegal strike. Under clause 16 such expenditure has been declared to be illegal and the persons properly interested in seeing that the funds are not misspent are the members of the trade union concerned.

Clause 21 (now clause 19).—The only alteration which we have made in this clause is consequential upon the amendment made to clause 14.

2. The Bill was published as follows :—

<i>In English.</i>		
Gazette.		Date.
Gazette of India	:	4th December, 1928.
Fort Saint George Gazette	:	25th September, 1928.
Bombay Government Gazette	:	1st November, 1928.
Calcutta Gazette	:	1st November, 1928.
Burma Gazette	:	27th October, 1928.
Central Provinces Gazette	:	22nd September, 1928.
Assam Gazette	:	10th September, 1928.
Bihar and Orissa Gazette	:	10th October, 1928.
Coorg District Gazette	:	1st November, 1928.
Sind Official Gazette.	:	8th November, 1928.
North-West Frontier Gazette	:	26th October, 1928.

<i>In the Vernaculars.</i>		
Province.	Language	Date.
Madras	{ Tamil	. 20th November, 1928.
	{ Telugu	. 20th November, 1928.
	{ Hindustani	. 27th November, 1928.
	{ Kannarese	. 20th November, 1928.
	{ Malayalam	. 11th November, 1928.
Bombay	{ Marathi	. 15th December, 1928.
	{ Gujarathi	. 13th December, 1928.
	{ Kanarese	. 6th December, 1928.
Central Provinces	{ Marathi	. 24th November, 1928.
	{ Hindi	. 24th November, 1928.
Coorg.	. Kanarese	. 1st December, 1928.
Sind	. Sindhi	. 6th December, 1928.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

B. N. MITRA.
 DARCY LINDSAY.
 VICTOR SASSOON.*
 S. C. MITRA.*
 G. D. BIRLA.*
 MD. ISMAIL KHAN.
 M. SHAH NAWAZ.
 M. S. SETHA IYENGAR.*
 V. V. JOGLAH.*
 JAMNADAS M. MEHTA.*
 S. LALL.
 M. K. ACHARYA.
 M. A. AZIM.
 TARIT BHUSHAN ROY.
 FAZAL I. RAHIMTOOLA.*
 K. C. ROY.
 HIRDAY NATH KUNZRU.*
 PURSHOTAMDAS THAKURDAS.
 M. A. JINNAH.*

MINUTES OF DISSENT.

I sign the report subject to the following minute of dissent.

I do not consider that Government should interfere unless the dispute is a major one and until direct negotiations between the parties have failed, and so I see no reason why Government should interfere except at the request of at least one party to the dispute where a registered trade union of the operatives in the trade concerned exists. This would allow Government to intervene where labour was disorganised and without knowledge of its privileges and rights.

The opposition to the above views considers that unless Government has the right of intervention at any time both parties would be likely to pursue obstinately an internecine warfare, suicidal to themselves and detrimental to the public interest. It does not appreciate the fact that one or other party would always be desirous of obtaining the support of Public Opinion and would thus hasten to demand Government intervention. It is only when both sides feel that they are on the way of coming to a satisfactory settlement that neither would desire the intervention of third party busy bodies.

The alteration of the law relating to picketing is one for which in my opinion the time is ripe. Picketing of any kind should be rendered illegal while a Court or Board is sitting, and the law on picketing at any time should be altered to render it illegal at or near a workman's house as under the English law.

There appears to be some doubt as to whether legislation of this kind should take place in this Bill or by an amending Bill to section 503 of the Indian Penal Code. It has been stated that if an amendment of this kind were passed in the Select Committee, it would delay the present Bill. I do not desire to delay the acceptance of the provisions of this Bill and so did not press the point which was raised by other Members of the Select Committee; but I consider that suitable action should be taken by Government whether when this Bill is before the House or by bringing out an amending Bill to the Indian Penal Code to deal with this most important and necessary point.

VICTOR SASSOON.

The 13th March, 1929.

With regard to sections 3, 4 and 6, I am of opinion that the appointing authority of the members of Boards of Conciliation and of the Courts of Inquiry shall be the High Court of Judicature of the place in the jurisdiction of which the dispute has arisen or is apprehended instead of the Local Government or the Governor General in Council as at present provided in the Bill. As for the constitution of these Boards and Courts these should consist of representatives—one in respect to Courts of Inquiry and two in respect to Boards of Conciliation—of each party to the dispute with a Chairman elected by these representatives. I would therefore amend these sections so as to bring them in conformity to these views and make consequential amendments in

sections 8 and 10 and any other sections which may require changes. In view of the alterations I propose, the definition of independent person, i.e., clause (d) of section 2 shall be deleted as unnecessary. I suggest two other alterations, one in section 5 and another in section 12. I would add a clause to section 5 requiring Boards and Courts to report to the appointing authority and obtain its orders before it makes any inquiry in private. As to reports made by Courts of Inquiry under section 12 I would make them final and binding on the parties on the confirmation of the same by the appointing authority with such modifications as it thinks fit, after hearing both parties.

I shall now give briefly my reasons for suggesting the changes which I propose. It must be remembered that Courts and Boards constituted must inspire perfect confidence in the minds of parties if these are intended to serve the public. In this connection it must be remembered that almost all Governments are considered to have a bias for the interests of Capital rather than of Labour. Even in countries, such as Australia, where the Government is Labour, there is this suspicion. The reason stated is that capitalists have vested interests and a stake in the country, whereas labourers have none. Whether there is or there is not substance in this, the fact remains that there is this suspicion entertained by Labour against Governments, whether these are employers of Labour or not. The suspicion becomes all the greater in countries like India, where the Government is the largest employer of Labour. It is therefore highly desirable that the Government of India should not only be quite just and impartial in such matters, but should take steps to see that it is altogether beyond even a shred of suspicion. The only way to do this is to make the Boards and Courts altogether independent of Government. When I say this I remember that often it is said that the appointing authority under the Bill, viz., the Government, is not a single person and the part of the Government which is the employer of Labour would have but a distant connection with the part which appointed the Board or the Court and dealt with its conclusions. I do not think this argument is quite sound. For instance, in most matters where Government is an employer, such as Railways, Post and Telegraphs, and the like, the Railway Board and the members of the Executive Council in charge of the particular portfolios cannot be said to have a distant connection with the part of the Government which appointed the Boards and Courts.

With respect to my suggested amendments to sections 5 and 12, my reason for the change proposed in section 5 is that, in my opinion, provisions regarding secrecy of any proceedings in respect to matters of public importance, especially when these matters come up before tribunals, should, as a rule, be done away with and inquiries should be public and open. I have, therefore, recognising that in trade disputes there are likely to be matters which deserve to be kept strictly confidential, placed certain safeguards over inquiries in private lest this power should be abused.

With respect to the Reports of Court of Inquiry dealt with in section 12 of the Bill, these should be made final and binding on parties under certain limitations, viz., the consideration by High Courts, I have done this after great hesitation. Neither the capitalists nor Labour Associations nor the Government have thought fit to suggest this. I fear there is something behind this which makes all parties reticent about an expression of view and fight shy of this point of making the report final and binding. I am, therefore, not keen on this change, but I have mentioned it for such consideration as it deserves.

V. V. JOGIAH.

The fundamental objections to the Bill as it emerges from the Select Committee remain unaffected. We feel that clauses 15 and onwards far from settling trade disputes will only multiply them; they will embitter relations between the employer and the employed and will, as all experience of similar legislation testifies, be utilised by the authorities for crushing political propaganda unpleasant to the bureaucracy. If the object of the Bill is to develop and foster genuine trade union movement in the country, clauses 15 and onwards will surely defeat that object. For these reasons we recommended in the Select Committee the deletion of the 15th and subsequent clauses. But having failed in that object we are obliged to append this minute of dissent. Up to clause 14 the Bill is a genuine attempt towards settlement of trade disputes by means of courts of inquiry and boards of conciliation. We believe that so far as that portion of the Bill is concerned, it emerges from the Select Committee considerably improved and strengthened. Almost all the changes that have been made in the Bill up to that clause have served to make it more equitable and just. Of course, we leave out of account the definition of the "public utility services" in clause 2 (g). That definition is consequential on the clause 15 and should therefore be considered along with it. We believe that this clause is a great danger to friendly relations between the employers and the employed. A public service may be a "utility service", but it does not therefore follow that a strike in such services without notice ought to be visited with criminal prosecution. It is true that a lockout in such services has been made an offence also, but that does not affect the argument against making a strike a penal offence. We cannot understand why a strike in a postal, telegraph or telephone service or for the matter of that in any Railway service should be made a crime. No doubt such a strike is inconvenient and interferes with our ordinary comforts, but it is monstrous to claim that if any body of men refuse to minister to our comforts and conveniences they ought to be branded as criminals especially when the strikers feel that these comforts and conveniences can only be satisfied by their own degradation and misery. Can it be seriously contended that the Frontier Mail and similar luxurious Railway services are so vital to society that strikes thereon should be made illegal? For the Legislature to give sanction to so iniquitous a doctrine as the one which is embodied in clause 15 is to proclaim to the world that the mass of mankind ought to remain wage slaves and that they would strike only on the pain of being clapped

into jail. We are most anxious to promote the industrial advancement of our country but not by methods of coercion as proposed under this clause. We grant that services like the supply of water, light and sanitation are absolutely essential to the very existence of society and that any strike in such services should be discouraged by all legitimate means, not because they are "public utility services" but because they are "social security services"; and as no man could be permitted to have interest against the very existence of society we are not opposed to any legislation against making strikes in the "social security services" illegal; but such strikes are already illegal and what is more, the punishment provided for them is heavier as will be seen by reading section 43 of the Indian Penal Code along with section 120-A as pointed out by the Hon'ble Mr. Justice Wort of the Patna High Court. So far as merely "public utility" services are concerned, clause 15 is iniquitous and so far as "social security services" are concerned, this clause is unnecessary, and we therefore are entirely against its inclusion in the Bill. As regards clause 16 and subsequent clauses they are out of tune with the spirit of the earlier portion of the Bill. Even in a country like England where the trade union movement is highly developed similar provisions have met with universal condemnation with the rank and file of the entire body of trade unions there. It cannot therefore be claimed that in a country where the trade union movement is still in its infancy such clauses could lead to beneficial results. They can lead only to disaster; while the rigour of the clause 16 (1) (b) has been somewhat softened by the changes made therein, the fundamental objections to it remain entirely unaffected. It cannot be suggested that workers should be deprived of the rights of citizenship simply because they are employed in some industry or business. No legislation which directly or indirectly interferes with fundamental human rights can meet with our approval. These clauses first assume that sympathetic strikes even in ordinary business are wrong. They further assume that if employees strike work in order to assist any agitation or propaganda for political rights they deserve to be suppressed; but such an idea, i.e., that the least external interference with the normal working of trade and industry should be regarded as criminal cannot be maintained in modern times and we therefore unequivocally oppose all these clauses.

One more thing remains to be stated. In order to take action against employers in cases of lockouts it is necessary to get the previous sanction of the Governor General in Council. This might work well so long as the employer is a non-official. But in case of the Government employers such a provision would remain a dead letter. It is next to impossible to obtain the sanction of the Governor General in Council if a trade union desires to prosecute any Agent of a Railway or a Member of the Railway Board. We had therefore proposed that against official employers registered trade unions ought to be allowed to sanction prosecution, if they decide to launch one, after passing an extraordinary resolution with a three-fourths majority to that effect. We think that the inclusion of such a provision is necessary if workmen are to be given the right to prosecute illegal lockouts by official employees. We also think that the protection given to black.

legs in clause 17 amounts to an improper interference with the internal administration of Trade Unions; but even if the changes we have pressed are accepted, we cannot support clauses 15 onwards as they are calculated to turn the Bill into the "Employers Charter" and to give legal sanction to a system of forced labour.

JAMNADAS M. MEHTA.

M. S. SETHA IYENGAR.

S. C. MITRA.

V. V. JOGIAH.

The 15th March, 1929.

I do not think that the Trade Disputes Bill can be said to be complete without a clause of picketing inserted in it. Picketing is a harassment for honest and willing workers and its provision should find a legitimate place in this Bill. The whole object of this Bill would be destroyed if picketing would be allowed when any trade dispute is under inquiry or investigation by a Court or Board. I am therefore of opinion that picketing should be made illegal.

As regards clause 16, as amended by the Select Committee, it is too wide and vague and will not serve the purpose for which it was intended. Whilst I believe that no political clause should be inserted in this Bill, I am strongly of opinion that no industry should be paralysed for coercing Government regardless of the ruin that it may cause to the community and to the industry.

FAZAL I. RAHIMTOOLA.

I do not find myself in a position to support clauses 16, 17 and 18. There is no doubt that the present clauses relating to illegal strikes are an improvement on those in the draft Bill, but my objection on principle remains and I cannot give such provision my support.

G. D. BIRLA.

The 15th March, 1929.

The Bill has undergone changes in the Select Committee, some of which are of a substantial character. They make that part of the Bill which deals with the investigation and settlement of trade disputes more acceptable and meet some of the objections raised against that part which is concerned with strikes in public utility services and general strikes. But the fundamental objections to this part of the Bill remain unaffected by the alterations introduced by the Select Committee.

I take it that the main purpose of the Bill is to enable Government to bring about the settlement of a trade dispute either by persuading the employers and the employees to arrive at an amicable understanding or by bringing the force of public opinion to bear upon the parties concerned. The Bill gives no power to Government

to enforce the decision of a Board of Conciliation or Court of Inquiry. The success of their intervention will thus depend on psychological causes. It is necessary therefore that the Bill should create an atmosphere of sympathy and goodwill. Looked at from this point of view, the retention of provisions relating to strikes in public utility services and general strikes must be regarded as a serious mistake. They will sow distrust in the minds of the workers who will regard them as aimed at their class and create suspicion in the mind of the public which will ascribe a political origin to them. The hostile feelings which the Bill will create may entirely defeat its principal object.

Clause 15 which deals with strikes in public utility services renders a strike in violation of the terms of service without previous notice illegal. If it was attempted to make sudden strikes penal only in services where stoppage of work without adequate notice would endanger human health or life the case for such action would theoretically be clear, however difficult the enforcement of the law might be in practice. But the definition of a public utility service in spite of the deletion of that provision by the Select Committee which would have vested Government with a discretionary power to declare any service a public utility service still includes services sudden strikes in which, whatever the inconvenience they may cause, cannot involve danger to life. However undesirable sudden strikes may be in any undertaking, there is no ground for making them penal where they do not affect the safety of the community. It may further be pointed out that sudden strikes in services which affect the existence of the community have been made illegal by provincial legislation. Proved defects in the existing law can be easily remedied by the provinces. Besides, strikes, if resorted to in breach of contract, can be severely dealt with under the Indian Penal Code. It is true that lock-outs in public utility services have been placed on the same level as strikes and rendered punishable, but this does not in any way affect the argument against the retention of clause 15.

Again, if certain services are of exceptional importance to society, the welfare of the workers who carry them on should also be a matter of special concern to us, but the Bill accords them no privileges, and amendments seeking to secure privileges for them were held to be outside the scope of the Bill.

The objections to clause 16, even as amended by the Select Committee, are of a more serious character. Legislation undertaken on similar lines in England met with determined opposition from responsible Labour leaders although the trade union movement is highly organised there and the difficulties in interpreting it were commented on by eminent lawyers and jurists. As pointed out in the debate which took place when the Bill was referred to the Select Committee there is a danger that sympathetic strikes and strikes the object of which is to get labour laws suitably changed may be held to be illegal under clause 16. There is also a justifiable fear that the clause may be used for political purposes. No evidence has been adduced to show either the urgency or the desirability of such a provision at this stage. It is bound to be regarded in the present circumstances as a direct attack on Labour and should be strenuously opposed.

It has been contended that the clauses referred to above are calculated to lead to a healthy development of the trade union movement and are therefore in the interests of the workers themselves. It is difficult to take such an argument seriously. I am unable to see how these clauses will bring about the extension of the trade union movement or a quicker organisation of Labour.

The second part of the Bill seems to me to have a definitely political tinge about it. It has no necessary connection with the first part. If the

Bill is meant to promote peace in the industrial world it should be shorn off the objectionable features briefly discussed above.

H. N. KUNZRU.

I agree with the general principles of the Bill as it emerges from the Select Committee. I suggest that the Act should remain in force till 31st March, 1934, and not for 5 years.

M. A. JINNAH.

(Words printed in italics indicate the amendments suggested by the Committee.)

A
BILL

TO

Make provision for the investigation and settlement of trade disputes, and for certain other purposes.

WHEREAS it is expedient to make provision for the investigation and settlement of trade disputes, and for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Trade Disputes Act, 19 .
Short title, extent, commencement and duration.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

(4) It shall remain in force for a period of five years only.

2. In this Act, unless there is anything repugnant in the subject or context,—
Interpretations.

(a) "Board" means a Board of Conciliation constituted under this Act;

(b) "Court" means a Court of Inquiry constituted under this Act;

(c) "employer", in the case of any industry, business or undertaking carried on by any department of the Government, means the authority prescribed in this behalf or, where no authority is prescribed, the head of the department;

(d) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Court or a Board if he is unconnected with the dispute with reference to which the Court or the Board is appointed and with any trade or industry directly affected by the dispute;

(e) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, where such closing, suspension or refusal occurs in consequence of a dispute and is intended for the purpose of compelling those persons, or of aiding another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "public utility service" means—

(i) any railway service which the Governor General in Council may, by notification in the Gazette of India, declare to be a public utility service for the purposes of this Act; or

- (ii) any postal, telegraph or telephone service ; or
- (iii) any industry, business or undertaking which supplies light or water to the public ; or
- (iv) any system of public conservancy or sanitation ;
- (h) " railway company " means a railway company as defined in section 3 of the Indian Railways Act, 1890 ; IX of 1890.
- (i) " strike " means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment ;
- (j) " trade dispute " means any dispute or difference between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person ; and
- (k) " workman " means any person employed in any trade or industry to do any skilled or unskilled manual or clerical work for hire or reward, but does not include any person employed in the naval, military or air service of the Crown or in the Royal Indian Marine Service.

Reference of Disputes to Courts and Boards.

3. If any trade dispute exists or is apprehended between an employer and any of his workmen, the Local Government or, where the employer is the head of a department under the control of the Governor General in Council or is a railway company, the Governor General in Council may, by order in writing,—

- (a) refer any matters appearing to be connected with or relevant to the dispute to a Court of Inquiry to be appointed by the Local Government or the Governor General in Council, as the case may be ; or
- (b) refer the dispute to a Board of Conciliation to be appointed by the Local Government or the Governor General in Council, as the case may be, for promoting a settlement thereof :

Provided that, where both parties to the dispute apply, whether separately or conjointly, for a reference to a Court, or where both parties apply, whether separately or conjointly, for a reference to a Board, and the authority having the power to appoint is satisfied that the persons applying represent the majority of each party, a Court or a Board, as the case may be, shall be appointed accordingly.

Court of Inquiry.

4. (1) A Court shall consist of an independent chairman and such other independent persons as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(2) A Court, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman.

5. (1) A Court shall, either in public or in private, at its discretion, inquire into the matters referred to it and report thereon to the authority by which the Court was appointed.

(2) A Court may, if it thinks fit, make interim reports.

Boards of Conciliation.

6. (1) A Board shall consist of a chairman and two or four other members, as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(2) Where the Board consists of more than one person, the chairman shall be an independent person and the other members shall be either independent persons or persons appointed in equal numbers to represent the parties to the dispute; all persons appointed to represent any party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make the necessary recommendation within the prescribed time, the appointing authority shall select and appoint such persons as it thinks fit to represent that party.

(3) A Board, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman:

Provided that, 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 before the Board has completed its work, the authority appointing the Board shall appoint, in the manner specified in sub-section (2), another person to take his place, and the proceedings shall be continued before the Board so re-constituted.

7. (1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same, and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits thereof and the right settlement thereof, and in so doing may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period sufficient in its opinion to allow the parties to agree upon terms of settlement.

(2) If a settlement of a dispute is arrived at by the parties thereto after it has been referred to a Board and during the course of the investigation thereof, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and the Board shall send a report of the settlement, together with the memorandum, to the authority by which the Board was appointed.

(3) If no such settlement is arrived at during the course of the investigation, the Board shall, as soon as possible after the close thereof, send a full report regarding the dispute to the authority

by which the Board was *appointed*, setting forth the proceedings and steps taken by the Board for the purpose of ascertaining the facts and circumstances relating to the dispute and of bringing about a settlement thereof, together with a full statement of such facts and circumstances and its findings thereon and the recommendation of the Board for the *determination* of the dispute.

(4) The recommendation of the Board shall deal with each item of the dispute, and shall state in plain language what in the opinion of the Board ought and ought not to be done by the respective parties concerned.

General.

8. No order of the Governor General in Council or of a Local Government appointing any person as a member of a Court or a Board shall be called in question in any manner.

9. (1) Courts and Boards shall, *subject to the provisions of this Act*, follow such procedure as may be prescribed.

(2) Courts and Boards shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

- (a) enforcing the attendance of any person and examining him on oath ;
- (b) compelling the production of documents and material objects ; and
- (c) issuing commissions for the examination of witnesses ;

and shall have such further powers as may be prescribed ; and every inquiry or investigation by a Court or Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

10. (1) If the services of the chairman or of any other *independent* member of a Court or Board cease to be available at any time for the purposes of the Court or Board, the appointing authority shall *in the case of a chairman, and may in the case of any other member, appoint another independent person to fill the vacancy*, and the proceedings shall be continued before the Court or Board so re-constituted.

(2) Where the Court or Board consists of one person only and his services cease to be available as aforesaid, the appointing authority shall appoint another *independent* person in his place, and the proceedings shall be continued before the person so appointed.

11. The report of a Court or Board shall be in writing and shall be signed by all the members of the Court or Board :

Form of report. *Provided that nothing in this section shall be deemed to prevent any member of a Court or Board from recording a minute of dissent from a report or from any recommendation made therein.*

12. (1) *The final and any interim report of a Court or Board, together with any minute of dissent recorded therewith, shall, as soon as possible after its receipt by the authority-*

by which the Court or Board was appointed, be published by that authority in such manner as it thinks fit.

(2) The said authority may publish or cause to be published from time to time, in such manner as such authority thinks fit, any information obtained, or conclusions arrived at, by the Court or Board as the result or in the course of its inquiry or investigation.

13. (1) Notwithstanding anything contained in section 12, there shall not be included in any report or publication made or authorised by a Court or Board or the authority appointing a Court or Board any information obtained by the Court or Board in the course of its inquiry or investigation as to any Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given before the Court or Board, except with the consent in writing of the secretary of the Trade Union or of the person, firm or company in question; nor shall any individual member of the Court or Board or any person concerned in the proceedings before it disclose any such information without such consent.

(2) If any member of a Court or Board or any person present at or concerned in the proceedings before a Court or Board discloses any information in contravention of the provisions of sub-section (1), he shall, on complaint made by or under the authority of the Trade Union or individual business affected, be punishable with fine which may extend to one thousand rupees:

Provided that nothing in this sub-section shall apply to the disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code.

XLV of 1880;

14. Subject to such conditions and restrictions as may be prescribed, any party to a dispute under inquiry or investigation by a Court or Board shall be entitled to be represented before the Court or Board by a legal practitioner.

Special provision regarding Public Utility Services.

15. (1) Any person who, being employed in a public utility service, goes on strike in breach of contract without having given to his employer, within one month before so striking, not less than fourteen days' previous notice in writing of his intention to go on strike or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer carrying on any public utility service who locks out his workmen in breach of contract without having given them, within one month before such lock-out, not less than fourteen days' notice in writing of his intention to lock them out, or, having given such notice, locks them out before the expiry thereof, shall be liable to imprisonment which may extend to one month, or to a fine which may extend to one thousand rupees, or with both.

(3) Where the employer committing an offence under sub-section (2) is a corporation, company or other association of persons, any secretary, director or other officer or person concerned with the management thereof shall be punishable as

therein provided unless he proves that the offence was committed without his knowledge or without his consent.

(4) No Court shall take cognisance of any offence under this section or of the abetment of any such offence save on complaint made by, or under authority from, the Governor General in Council or the Local Government.

(5) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

Special provision for Illegal Strikes and Lock-outs.

' 16. (1) A strike or a lock-out shall be illegal which—
Illegal strikes and lock-outs.

- (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.

(2) It shall be illegal to commence or continue, or to apply any sums in *direct* furtherance or support of any such illegal strike or lock-out.

(3) For the purposes of this section—

- (a) a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry ;
- (b) *without prejudice to the generality of the expression "trade or industry", workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers.*

(4) A strike or a lock-out shall not be deemed to be calculated to *compel* the Government unless such *compulsion* might reasonably be expected as a consequence thereof.

17. (1) If any person declares, instigates, incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under the provisions of section 16, he shall be punishable with *simple* imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both :

Provided that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment.

(2) No Court shall take cognisance of any offence under this section save on complaint made by, or under authority from, the Governor General in Council or the Local Government.

(3) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

18. (1) No person refusing to take part, or to continue to take part, in any strike or lock-out which is illegal under the provisions of section 16

Protection of persons withholding from illegal strike or lock-out.

shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

Rules.

19. (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 make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the powers and procedure of Courts and Boards, including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation and the number of members necessary to form a quorum;
- (b) the allowances admissible to members of Courts and Boards and to witnesses;
- (c) the ministerial establishment which may be allotted to a Court or Board and the salaries and allowances payable to members of such establishments;
- (d) the conditions and restrictions subject to which persons may be represented by legal practitioners in proceedings under this Act before a Court or Board;
- (e) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be published in the Gazette of India or the local official Gazette, as the case may be, and shall, on such publication, have effect as if enacted in this Act.

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LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the
Bill to make provision for the
investigation and settlement of
trade disputes, and for certain
other purposes, with the Bill as
amended.