

**JOINT/SELECT COMMITTEE  
REPORTS OF LEGISLATIVE  
ASSEMBLY -1947**

**The Industrial Disputes  
Bill**

I. List of Reports of Select Committees  
presented to the Legislative Assembly  
of the Indian Legislature in 1947.

S.No.	Short title of the Bill.	Date of presen- tation.	Date of publica- tion.
1.	The Indian Navy (Discipline) (Amendment) Bill.	3.2.1947.	15.2.1947
2.	The Motor Vehicles (Amendment) Bill.	3.2.1947.	15.2.1947
3.	The Motor Vehicles (Second Amendment) Bill.	3.2.1947.	15.2.1947
<del>4.</del>	The Foreign Exchange Regulation Bill.	3.2.1947.	15.2.1947
5.	The Industrial Disputes Bill.	3.2.1947.	15.2.1947
6.	The Railways (Transport of Goods) Bill.	17.2.1947.	1.3.1947
7.	The Banking Companies Bill.	17.2.1947.	1.3.1947
8.	The Indian Trade Unions (Amendment) Bill.	26.2.1947.	5.4.1947
9.	The Insurance (Second Amendment) Bill.	5.3.1947.	15.3.1947
10.	The Delhi and Ajmer-Merwara Rent Control Bill.	12.3.1947.	22.3.1947
11.	The Imports and Exports (Control) Bill.	12.3.1947.	22.3.1947
12.	The Income-tax and Excess Profits Tax (Amendment) Bill.	19.3.1947.	29.3.1947
13.	The Business Profits Tax Bill.	19.3.1947.	29.3.1947
14.	The Rubber (Production and Marketing) Bill.	1.4.1947.	12.4.1947
15.	The Control of Shipping Bill.	1.4.1947.	12.4.1947
16.	The Capital Issues (Continuance of Control) Bill.	7.4.1947.	12.4.1947

S.No.	Short title of the Bill.	Date of presentation.	Date of publication.
17.	The Taxation on Income (Investigation Commission) Bill.	7. 4.1947.	19. 4.19

II. List of Reports of Select Committees Presented to the ~~Legis~~ Constituent Assembly of India (Legislative) in 1947.

1. The Delhi and Ajmer-Merwara Rent Control (Amendment) Bill. 1. 12.1947. 13.12.19
2. The Delhi Premises (Requisition and Eviction) Bill. 1.12.1947. 13.12.19
3. The Extra-Provincial Jurisdiction Bill. 6.12.1947. 13.12.19

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## LEGISLATIVE ASSEMBLY

### REPORT OF THE SELECT COMMITTEE ON THE INDUSTRIAL DISPUTES BILL, 1946

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

*Clause 2.*—We consider that the definitions of “lock-out” and “strike” should be brought more into line, and propose accordingly the omission of the concluding lines in the former definition. In the definition of “public utility service” we have made three substantial changes: (i) we include sections of industrial establishments on the continued working of which the safety of the concern and the workmen depends, (ii) we suggest limiting the wide scope of the power to add by notification to the definition to the classes of industries we include in a Schedule added to the Bill, and (iii) we take transport, other than railways, to this Schedule. We also propose making it clear that apprentices are “workmen”. The other changes in this clause are formal.

*Clause 3.*—The concluding lines of sub-clause (1) have been recast to make it clear that the workmen’s representatives on Works Committees shall be chosen from among the workmen themselves, and that the trade union to be consulted should be registered. Sub-clause (2) has been revised in an endeavour to remove its somewhat pessimistic outlook.

*Clause 5.*—We consider that in all cases Boards should consist of equal number of representatives under an independent chairman, and have amended the clause accordingly.

*Clause 7.*—The omission of “ordinarily” is formal.

*Clause 8.*—The changes are consequential upon our changes in clause 5.

*Clause 10.*—In taking sub-clause (3) as a proviso to sub-clause (1) we are actuated mainly by drafting considerations, though we have brought out more clearly that in disputes in public utility services references under this clause should be the normal procedure.

*Clause 11.*—We think that the work of conciliation officers should not be too formal, so we omit them from the scope of sub-clause (3) adding a new sub-clause (4) on the lines of the existing provision in section 18A(3) of the 1929 Act. We see no reason why the parties should not in all cases pay their own costs in proceedings before Tribunals, so we omit the original sub-clauses (4) and (5) of the Bill. We do however consider that Courts and Tribunals should be able to invoke the aid of expert assessors should they feel the necessity and the parties agree, and we insert a sub-clause (5) accordingly.

*Clause 12.*—With the informality we contemplate in the work of conciliation officers, we do not think that they will be adequately qualified to arrive at “findings” or make recommendations. We have amended the clause accordingly. The other changes in this clause are formal.

*Clause 13.*—Our changes are formal.

*Clause 14.*—We think that for normal cases a time for proceedings before a Court should be set.

*Clause 15.*—We cannot accept the principle of the Bill that Government can reject or modify as it thinks fit an award. We appreciate that when Government is itself a party, public grounds may make an award impossible of acceptance. We therefore propose that where Government cannot accept the award in such cases, the award should be referred to the Legislature.

*Clause 17.*—We think that it should be secured that publication of reports and awards should not be unduly delayed.

*Clause 18.*—Our changes are formal.

*Clause 19.*—In addition to some formal changes, we consider that provision should be made for the shortening of the period of operation of an award where circumstances on which the award was based have changed materially.

*Clause 20.*—Our amendment is consequential upon the changes in clause 15.

*Clause 21.*—A formal insertion has been made.

*Clause 22.*—In sub-clauses (1) and (2), the references to one month in (a) and to 24 days in (d) were from the practical viewpoint inconsistent: we have therefore proposed some widening of the interval of time involved. In sub-clause (3) we consider that reciprocal provision should be made.

*Clause 23.*—We think that the period of 14 days after the end of conciliation proceedings can be halved for the purposes of this section.

*Clause 24.*—We give reciprocal effect to sub-clause (5) and make other formal changes.

*Clause 26.*—In recasting the penal provisions of the 1929 Act the Bill does not give effect to the proviso to sub-section (1) of section 17. We supply this omission.

*Clause 30.*—We think that the penalty proposed in the Bill is too lenient.

*Clause 31.*—A breach of section 33 is not expressly provided for in the Bill, and we consider that the penalty provided by this residuary clause too lenient, we therefore add a separate sub-clause covering clause 33 in this clause.

*Clause 33.*—We make a drafting clarification.

*Clause 36.*—We add a reciprocal provision to sub-clause (1), and we see no reason for attaching the Bill's qualifications to the appearance of legal practitioners before Courts and Tribunals.

*Clause 38.*—We propose that rules should be made after previous publication. With this provision sub-clause (4) becomes unnecessary, as section 23, including clause (5) thereof, is attracted.

*Clause 39.*—We consider that as the clause appears in the Bill, it allows excessive powers of delegation. We have considered all the powers of Government under the Bill, and think that it is only the power under clause 3 which may usefully be delegated.

*The Schedule.*—This has been added for the reason given in our comments above under clause 2.

2. The Bill was published in the *Gazette of India*, Part V, dated the 2nd November, 1946.

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.

JOGENDRA NATH MANDAL.

\*JAGJIVAN RAM.

\*N. M. JOSHI.

\*S. GURUSWAMI.

\*A. C. INSKIP.

\*COWASJEE JEHangIR.

N. G. RANGA.

T. V. SATAKOPACHARI.

\*D. P. KARMARKAR.

\*VADILAL LALLUBHAI.

SATYAPRIYA BANERJEE.

B. S. HIRAY.

\*SHAH ABDUL HAMID.

MUHAMMAD RAHMUTULLAH.

\*S. C. JOSHI.

\*P. J. GRIFFITHS.

\*MANIBEN KARA.

NEW DELHI,  
*The 3rd February, 1947.*

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\*Subject to a minute of dissent.

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## MINUTES OF DISSENT

### I

We have signed the Report subject to this minute of dissent in which we are compelled to record our disagreement on the following two points :—

- (1) *Clause 15 (2)*.—There may be cases where on public grounds it may not be possible for Government to accept the whole or part of the award of the Tribunal. In such cases, in our opinion, Government should have the power, subject to the approval of the Legislative Assembly to modify or reject the award. This power should be a general power and not confined only to cases where Government is itself a party to the dispute.
- (2) *Clause 19 (3)*.—While we agree with the Committee that the period of operation of an award should be shortened, where the circumstances on which it was based have materially changed, we feel that the appropriate Government should have the authority either on its own motion, or on application of any party bound by the award, to decide whether there is case for reference to the Tribunal. It is only when the Government is so satisfied that it should refer the award to a tribunal for final decision.

JAGJIVAN RAM.

S. C. JOSHI.

D. P. KARMARKAR.

SHAH ABDUL HAMID.

NEW DELHI,  
The 3rd February 1947. }

### II

The clauses dealing with the principles of the Bill have remained unmodified after their consideration by the Select Committee. There is, therefore, no need for us to modify our attitude of opposition to these clauses and towards the Bill as a whole. We shall, however, make the following comments on the clauses of the Bill.

*Clause 2 (n)*.—We would define a public utility as a service the deprivation of which will cause injury or danger to human life and which is maintained by the Central or a Provincial Government or a Municipality or a District Board or any other Statutory Local Authority and includes (1) undertakings which supply light, water, medical relief or food to the public and a system of conservancy or sanitation or medical relief.

*Clause 2 (n) (i)*.—The definition adopted by the Select Committee is too wide. It includes even a privately owned and managed railway. In 1919 Act the railway to be included in the public utility had to be notified by Government as a public utility.

*Clause 2 (n) (iii)*.—We don't approve of privately owned and managed telephone service being included with Posts and Telegraphs.

*Clause 2 (n) (vi)*.—We are against extending the scope of public utility by means of sub-section (vi) of clause 2 (n). If the sub-clause is to be retained we are against "public interest" being included among the grounds on which an industry is to be declared public utility. Public emergency should be the only justification for extending the scope of the definition of Public Utility.

In the definition of "strike" we would restrict its scope by providing that only when cessation of work is in consequence of an industrial dispute, it should be called a 'strike'.

*Clause 3.*—In clause 3 we would provide that workmen's representative on the Works Committee shall be elected only by the trade union where a trade union exists.

*Clause 7.*—We would provide that every member of a Tribunal shall receive a salary equal to that of a High Court Judge.

*Clause 10 (1).*—We would restrict the reference of a dispute to a Tribunal only to the cases where both the parties agree to the reference.

In the Proviso to clause 10(1) we would not permit Government to escape its obligations to make reference to a Tribunal on the ground of 'inexpediency'.

*Clause 10 (3).*—We would omit sub-clause (3) of clause 10. If strikes are begun in a legal manner there is no justification for making them illegal on the ground that Government has referred the dispute to a conciliation machinery. If the Legislature does not accept our proposal to omit the clause we would seek to modify the sub-clause restricting its operation only to those cases where strikes had taken place without notice.

*Clause 12 (6).*—We would substitute 'week' for 'fourteen days' as the period within which the Conciliation Officer must make a Report.

*Clause 13 (5).*—We would substitute 'a fortnight' for 'two months' as the period within which the Board must make its report. In the Proviso to clause 13(5) we would substitute 'fortnight' for 'two months'. The proceedings before the Board need not be very formal and not take a long time. Moreover long duration of these proceedings will sap the faith of the workers in the usefulness of conciliation.

*Clause 14.*—One month's period for an enquiry by a Court should be enough. Six months is too long and workers will not submit to such a delay.

*Clause 15.*—We are opposed to the Proviso to sub-clause (2) of clause 15. The workers having gone through the agonising delay of indefinite period, will not agree to the Government themselves not accepting the award of their Tribunal.

*Clause 17.*—A fortnight's period for publication of the Report should be sufficient.

*Clause 19.*—If the parties themselves do not fix a minimum period for a voluntary settlement we do not understand why the legislation should force on them a minimum period. One month's period of notice for the termination of a settlement should be enough.

*Clause 19 (3).*—We would like that the Government should be under an obligation to refer to the Tribunal the question of an earlier termination of the settlement on the application of any one of the parties.

*Clause 23.*—The Bill is providing for conciliation and adjudication proceedings which can be extremely long and protracted especially the proceedings before a Tribunal which are of unlimited duration. During these long period some other grievances will arise which are not the subjects of the conciliation and adjudication proceedings but workers will not be able legally to resort to a strike even though Government may not take any action for conciliation and adjudication on these fresh grievances. The protracted nature of the proceedings reduces the value and usefulness of conciliation in the eyes of the workers who would prefer to take their chance of getting redress even by an illegal strike. We are, therefore, opposed to this clause.



*Clause 24 (1) (i).*—We are opposed to a more “declaration” of a strike being made illegal.

*Clause 24 (1) (iii).*—We are opposed to sub-section (iii) of sub-clause (1) of clause 24.

*Clause 25.*—We are against clause 25 which makes it a crime of contributing funds towards a strike especially if the contributor gives money even without knowing that the strike is illegal.

*Clause 26 (1).*—We would not impose a penalty upon an ordinary workman who merely joins a strike of any kind whether it is in consequence of a purely industrial dispute or otherwise and so would omit the words “which is not in furtherance of an industrial dispute”. The fine of rupees fifty on ordinary workman is too heavy and should not exceed rupees five and we would reduce the imprisonment to one week.

*Clause 27.*—We would in the case of representatives of workers, reduce the imprisonment to one month and the fine to rupees fifty.

*Clause 28.*—We would impose penalty only on those who knowingly break the law by contributing funds and we would reduce the penalty to a fortnight's imprisonment and a fine of Rs. 10.

*Clause 29.*—We are opposed to clause 29 being made applicable to workers. The clause makes a civil wrong committed even by an individual, a crime. By this clause we are practically revising the old indenture system of re-enacting the old workman's Breach of Contract Act. Such legislation will also be a breach of an I.L.O. Convention prohibiting breach of contract of service being made a criminal offence. We wonder whether the Government or the majority of the Select Committee realise the extent of the reactionary nature of their proposal.

*Schedule.*—We would omit from the Schedule ‘Coal’, ‘Textile’, and ‘Iron and Steel’.

N. M. JOSHI.

MANIBEN KARA.

S. GURUSWAMI.

NEW DELHI,

The 3rd February, 1947.

### III

Although we consider that the Bill is in many ways a useful measure there are certain provisions in it which we regard as unsound and with respect to which we reserve the right to move amendments when the Bill next comes before the Legislative Assembly.

1. *Clause 3.*—We disagree with this clause which makes the establishment of works committees obligatory. We doubt whether such committees are suited to the present state of labour in this country and in any case we consider that they could only be of value if established by voluntary agreement between employer and employee.

2. *Clause 15.*—We do not consider that in the general case awards of tribunals would be binding. In our view it is right that conciliation proceedings should

be made compulsory but if they fail, employers and employees must have the right to fight out their dispute. We should be prepared to agree to binding awards only in public utility concerns.

3. *Clause 23*.—In our view, notice of a strike should be required in all cases and not only in public utility concerns. It seems to us meaningless to make conciliation proceedings compulsory if notice of strikes is not required.

4. *Clause 2*.—We do not consider that the Act in its present form should apply to plantations—a simpler measure is required there and could suitably be provided in the plantation code which, we understand, is now contemplated. We consider, therefore, that plantations should be excluded from the definition of industry and industrial dispute in sub-clause 'j' and 'k' of clause 2 of the Bill.

P. J. GRIFFITHS.

A. C. INSKIP.

NEW DELHI,

The 3rd February 1947.

#### IV

*Clause 2 (j)*.—I consider the definition of "industry" too wide, in as much as the words "business, trade" should be omitted, or at least restricted to "business, trade" employing a minimum number of employees.

*Clause 10 (1)*.—Government should be restricted in their power to refer a dispute to a Tribunal for adjudication in all cases other than disputes in public utility services or in cases of grave national emergency.

*Clause 10 (3)*.—"Shall" should be substituted for "may".

*Clause 24*.—There should be a provision similar to the one in the Defence of India Rules *viz.*, that in the case of every strike or lock-out, a 15 days' notice must be given.

SIR COWASJEE JEHangIR.

NEW DELHI,

The 3rd February, 1947.

#### V

Whilst I generally support the main object of the Bill, namely, promoting industrial peace in the country, I find it difficult to agree with my other colleagues on the Select Committee particularly in respect of those provisions of the Bill which seek to make a distinction between the public utility services and other industries. True, a few public utility services have been in the public eye due to recent strikes therein either threatened or actual. But that alone does not offer a sound criterion to place them on a different footing than industries. On the contrary I feel that the conditions that are sought to be placed on public utility services should be uniformly imposed on all industries without any distinction. At a time when conditions of scarcity prevail all round and all over the country, maintenance of industrial peace becomes important and necessary in all industries equally and it is unwise to attach more importance to it in some industries and less importance in others, at least for the present. I therefore feel that the Bill should be so modified as to place all industries on the same and uniform footing.

In respect of clause 10 (3) as amended by the Select Committee where it is provided that when an industrial dispute has been referred to a Board or a Tribunal, the appropriate Government *may* by order prohibit the continuance of any strike or lock-out in connection with such dispute, etc. I consider it meaningless that when once the Government intervenes in the matter and refers the dispute to a Board or a Tribunal, the strike or lock-out should continue at the same time except when the Government prohibits it at its own option. It should be rather obligatory on the Government to prohibit the continuance of a strike or lock-out when the dispute has been referred to a Board or Tribunal. The sub-clause should therefore be modified accordingly.

NEW DELHI;

*The 3rd February, 1947.*

VADILAL VALLUBHI.

(BILL AS AMENDED BY THE SELECT COMMITTEE)

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

A  
BILL

*to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.*

WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER I

*Preliminary*

1. (1) This Act may be called the Industrial Disputes Act, 1947. Short title, extent and commencement.

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

(3) It shall come into force on the first day of April, 1947.

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

(a) “appropriate Government” means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, by the Federal Railway Authority or by a railway company operating a Federal Railway or in relation to an industrial dispute concerning a mine, oilfield, or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the Provincial Government;

(b) “award” means an interim or final determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto;

(c) “Board” means a Board of Conciliation constituted under this Act;

(d) “conciliation officer” means a conciliation officer appointed under this Act;

(e) “conciliation proceeding” means any proceeding held by a conciliation officer or Board under this Act;

(f) “Court” means a Court of Inquiry constituted under this Act;

(g) “employer” means—

(i) in relation to an industry carried on by or under the authority of any department of a Government in British India, the authority prescribed in

this behalf, or where no authority is prescribed, the head of the department ;

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority ;

(h) \* \* \* "Federal Railway" \* \* \* has the same meaning as in the Government of India Act, 1935 ;

26. Geo. 5, c. 2

(i) a person shall be deemed to be " independent " for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute ;

(j) " industry " means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen ;

(k) " industrial dispute " means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person ;

(l) " 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 employed by him, \* \* \* persons

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

(n) " public utility service " means—

(i) any railway service ;

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends ;

(iii) any postal, telegraph or telephone service ;

(iv) any industry which supplies power, light or water to the public ;

(v) \* \* \* any system of public conservancy or sanitation ;

(vi) any \* industry specified in the Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the official Gazette declare to be a public utility service for the purposes of this Act, for such period, if any, as may be specified in the notification ;

(o) " railway company " means a railway company as defined in section 3 of the Indian Railways Act, 1890 ;

(p) " settlement " means a settlement arrived at in the course of a conciliation proceeding ;

(q) " strike " means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common

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understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

(r) "Tribunal" means an Industrial Tribunal constituted under this Act;

(s) "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the Crown.

## CHAPTER II

### *Authorities under this Act*

3. (1) In the case of any industrial establishment **Works Committee** in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act

XVI of 1926<sup>1926</sup>.

(2) It shall be the duty of the Works Committee **\*\*\***to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

4. (1) The appropriate Government may, by notification in the official Gazette, appoint such number of **Conciliation officers** persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

5. (1) The appropriate Government may as occasion **Boards of Conciliation** arises by notification in the official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, **\*\*\*** as the appropriate Government thinks fit.

(3) \*\*\* The chairman shall be an independent person and the other members shall be \*\*\* persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party :

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member \*\*\* have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

#### Courts of Inquiry

6 (1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

#### Industrial Tribunals

7. (1) The appropriate Government may constitute one or more Industrial Tribunals for the adjudication of industrial disputes in accordance with the provisions of this Act.

(2) A Tribunal shall consist of such number of members as the appropriate Government thinks fit. Where the Tribunal consists of two or more members, one of them shall be appointed as the chairman.

(3) Every member of the Tribunal shall be an independent person who is or has been a Judge of a High Court or who possesses qualifications \* required for appointment as a Judge of a High Court.

#### Filling of vacancies

8. (1) If the services of the chairman \*\*\*\*\* of a Board or of the chairman or other member of a Court or Tribunal cease to be available at any time, the appropriate Government 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 Board, Court or Tribunal so reconstituted.

(2) Where a \* Court or Tribunal consist of one person only and his services cease to be available the appropriate Government shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

(3) Where \*\*\*the services of any member of a Board other than the chairman have ceased to be available, the appropriate Government shall appoint in the manner specified in sub-section (3) of section 5 another person to take his place, and the proceedings shall be continued before the Board so reconstituted.

9. No order of the appropriate Government appointing any person as a member of a Board, Court or Tribunal shall be called in question in any manner. Finality of orders constituting a Board, Court or Tribunal

### CHAPTER III

#### *Reference of Disputes to Boards, Courts or Tribunals*

10. (1) If any industrial dispute exists or is apprehended, the appropriate Government may, by order in writing,— Reference of disputes to Boards, Courts or Tribunals

(a) refer the dispute to a Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

(c) refer the dispute to a Tribunal for adjudication:

Provided that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court or Tribunal, the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

\* \* \* \*

(3) Where an industrial dispute has been referred to a Board or Tribunal under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.



## CHAPTER IV

*Procedure, powers and duties of Authorities*

Procedure and powers of conciliation officers, Boards, Courts and Tribunals

11. (1) Conciliation officers, Boards, Courts and Tribunals shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(2) A conciliation officer or a member of a Board, Court or Tribunal may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every\*\* Board, Court and Tribunal shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908, when trying a suit,\*V of 1908 in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ;

(c) issuing commissions for the examination of witnesses ;

(d) in respect of such other matters as may be prescribed ;

and every inquiry or investigation by a \*\* Board, Court or Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

XLV of 1860.

(4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute.

(5) With the consent of all parties to the dispute, a Court or Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in the proceedings.

(6) Every conciliation officer and every member of a Board, Court or Tribunal shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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Duties of conciliation officers

12. (1) Where an industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.

(2) \*\*\*The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings \* \* \* the conciliation officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for \*\*ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances,\*\* and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board or Tribunal, it may make such reference. Where the appropriate Government does not make such reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted \*\*within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

13. (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 and the right settlement thereof and 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.

**Duties of Boards:**

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for \*\*ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a Tribunal under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date of the notice under

section 22 or within such shorter period as may be fixed by the appropriate Government :

Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate :

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

Duties of Courts

14. A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

Duties of  
Tribunals

15. (1) Where an industrial dispute has been referred to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as practicable on the conclusion thereof, submit its award to the appropriate Government.

(2) On receipt of such award, the appropriate Government shall by order in writing declare the award to be binding : \* \* \* \* \*

Provided that where the appropriate Government is a party to the dispute and in its opinion it would be inexpedient on public grounds to give effect to the whole or any part of the award, it shall on the first available opportunity lay the award together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, or where the appropriate Government is the Central Government, before the Central Legislative Assembly, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award ; and the Legislative Assembly may, by its resolution, confirm, modify, or reject the award.

(3) On the passing of a resolution under the proviso to sub-section (2), unless the award is rejected thereby, the appropriate Government shall by order in writing declare the award as confirmed or modified by the resolution, as the case may be, to be binding.

(4) Save as provided in the proviso to sub-section (3) of section 19, an award declared to be binding under this section shall not be called in question in any manner.

Form of report or  
award

16. The report of a Board or Court and the award of a Tribunal shall be in writing and shall be signed by all the members of the Board, Court or Tribunal, as the case may be :

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

17. The report of a Board or Court and the award of a Tribunal, together with any minute of dissent recorded therewith, shall, within a period of one month from the date of its receipt by the appropriate Government, be published in such manner as it thinks fit. **Publication of reports and awards**

18. A settlement arrived at in the course of conciliation proceedings under this Act or an award which is declared by the appropriate Government to be binding under sub-section (2) of section 15 shall be binding on— **Persons on whom settlements and awards are binding**

(a) all parties to the industrial dispute;  
 (b) all other parties **\*\*summoned to appear in the proceedings as parties to the dispute, unless the **\*\*\*Board or Tribunal, as the case may be, records the opinion that they were so summoned without proper cause ;****

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

19. (1) A settlement arrived at in the course of a conciliation proceeding under this Act shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute. **Period of operation of settlements and awards**

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of one year, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of three months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award declared by the appropriate Government **\*\*\*** under section 15 to be binding shall come into operation on such date as may be specified by the appropriate Government and shall remain in operation for such period, not exceeding one year, as may be fixed by that Government:

Provided that if any party bound by the award is of opinion that there has been a material change in the circumstances on which the award was based, it may apply to the appropriate Government for a reference of the award to a Tribunal, and on receipt of such application or if the appropriate Government is itself of such opinion as aforesaid, the appropriate Government shall

refer the award to a Tribunal for a decision whether or not the award should, by reason of such change, cease to be in operation before the expiry of the period so fixed and the period of operation of the award shall be determined by the decision of the Tribunal on such reference.

Commencement  
and conclusion of  
proceedings

20. (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute ;

(b) where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be, or

(c) when a reference is made to a Court or Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before a Tribunal shall be deemed to have commenced on the date of the reference of a dispute for adjudication and such proceedings shall be deemed to have concluded when the award is published by the appropriate Government under section 17, or where an award has been laid before the Legislative Assembly under the proviso to sub-section (2) of section 15, when the resolution of the Legislative Assembly thereon is passed.

Certain matters  
to be kept con-  
fidential

21. There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such officer, Board, Court or Tribunal, if the trade union, person, firm or company, in question has made a request in writing to the conciliation officer, Board, Court or Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board, Court or Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be :

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

## CHAPTER V

*Strikes and lock-outs*

22. (1) No person employed in a public utility service shall go on strike in breach of contract— **Prohibition of strikes and lock-outs**

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock out any of his workmen—

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

General prohibi-  
tion of strikes and  
lock-outs

23. No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before a Tribunal and two months after the conclusion of such proceedings; or

(c) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

Illegal strikes and  
lock-outs

24. (1) A strike or a lock-out shall be illegal if—

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10; or

(iii) it has any object other than, or in addition to, the furtherance of an industrial dispute within the industry in which the workmen going on strike or the employers locking out are engaged and the strike or lock-out is designed or calculated to inflict severe,\* general and prolonged hardship upon the community and thereby to compel any Government in British India\*\*\* to take or abstain from taking any particular course of action.

(2) For the purposes of this section—

(a) an industrial dispute shall not be deemed to be within an industry unless it is a dispute between employers and workmen, or between workmen and workmen in that industry, which is connected with the employment or non-employment or the terms of employment, or with the conditions of labour, of persons in that industry;

(b) workmen shall be deemed to be within the same industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers.

(3) A strike or lock-out shall not be deemed to be calculated to compel any Government in British India, \*\*unless such compulsion might reasonably be expected as a consequence thereof.

(4) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, or Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10.

(5) A lock-out declared\*\*\* in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

25. No person shall expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

Prohibition of financial aid to illegal strikes and lock-outs

## CHAPTER VI

### Penalties

26. (1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both :

Penalty for illegal strikes and lock-outs

Provided that no workman shall be deemed to have committed an offence under this sub-section by reason only of his having joined an illegal strike which is not in furtherance of an industrial dispute.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

27. Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for instigation, etc.

28. Any person who expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes and lock-outs

29. If any person commits a breach of any term of any settlement or award which is binding on him under this Act, he shall on his first conviction therefor be punishable with fine which may extend to two hundred rupees and in the event of a second or subsequent conviction, with fine which may extend to five hundred rupees.

Penalty for breach of settlement or award

30. Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for disclosing confidential information

31. (1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment

Penalty for other offences



for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

## CHAPTER VII

### *Miscellaneous*

Offence by companies, etc.

32. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Conditions of service, etc. to remain unchanged during pendency of proceedings.

33. No employer shall during the pendency of any conciliation proceedings or proceedings before a Tribunal, in respect of any industrial dispute, alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings, nor, save with the express permission in writing of the conciliation officer, Board or Tribunal, as the case may be, shall he during the pendency of such proceedings, discharge, dismiss, or otherwise punish any such workmen, except for misconduct not connected with the dispute. \* \* \*

Cognizance of offences.

34. (1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

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

Protection of persons.

35. (1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act 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.

36. (1) A workman who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this Act by an officer of a registered trade union, and any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceedings by an officer of an association of employers. Representation of parties

(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act.

(3) A party to an industrial dispute may\*\* be represented by a legal practitioner in any proceedings before a Court or Tribunal.

37. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder. Protection of action taken under the Act

38. (1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act. Power to make rules

(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 conciliation officers, Boards, Courts and Tribunals including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards;

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties;

(c) the allowances admissible to members of Courts, Boards, and Tribunals and to assessors and witnesses;

(d) the ministerial establishment which may be allotted to a Court, Board or Tribunal and the salaries and allowances payable to members of such establishments;

(e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court or Tribunal ;

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

\* \* \*

**Delegation of power**

39. The appropriate Government may by order direct that its power under section 3 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by any officer or authority subordinate to that Government.

**Repeal of Act VII of 1929**

40. The Trade Disputes Act, 1929, is hereby repealed.

#### THE SCHEDULE

*Industries which may be declared to be public utility services under sub-clause (vi) of clause (n) of section 2.*

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.
2. Coal.
3. Cotton textiles. †
4. Foodstuffs.
5. Iron and steel.