

In the Privy Council,

No. 99 of 1924.

ON APPEAL FROM THE APPELLATE DIVISION OF THE SUPREME COURT OF ONTARIO.

BETWEEN

TORONTO ELECTRIC COMMISSIONERS (*Plaintiffs*) .. *Appellants,*

AND

COLIN G. SNIDER, J. G. O'DONOGHUE AND F. H.
McGUIGAN (*Defendants*) *Respondents,*

AND

THE ATTORNEY-GENERAL OF CANADA AND THE
ATTORNEY-GENERAL OF ONTARIO *Intervenants.*

JOINT APPENDIX OF STATUTES.

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JOINT APPENDIX OF STATUTES.

No. 1.

British North America Act, 1867.
30 & 31 Victoria, Chapter 3.

* * * * *

APPENDIX.

No. 1.
British North
America Act,
1867,
30 & 31 Vict.,
Cap. 3,
Secs. 91 & 92.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons to make Laws for the Peace, Order, and good Government of Canada, -in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say:—

Legislative
Authority of
Parliament of
Canada.

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.

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No. 1.
British North
America Act,
1867,
30 & 31 Vict.,
Cap. 3
—continued.

3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals. 10
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the issue of paper money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest. 20
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalisation and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of 30 Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the classes of Subjects enumerated in this Section shall not be deemed to come within the class of Matters of a local or private nature comprised in the Enumeration of the classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

Subjects of
exclusive
Provincial
Legislation.

92. In each Province the Legislature may exclusively make Laws in 40 relation to Matters coming within the classes of Subjects next hereinafter enumerated; that is to say:—

1. The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.

3. The borrowing of Money on the sole Credit of the Province.

4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.

5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.

6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.

10 7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.

8. Municipal Institutions in the Province.

9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.

10. Local Works and Undertakings other than such as are of the following Classes :—

20 (A) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province :

(B) Lines of Steam Ships between the Province and any British or Foreign Country.

(C) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

11. The Incorporation of Companies with Provincial Objects.

12. The Solemnisation of Marriage in the Province.

30 13. Property and Civil Rights in the Province.

14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organisation of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.

40 16. Generally all Matters of a merely local or private Nature in the Province.

REVISED STATUTES OF CANADA, 1906.

Chapter 96.

An Act respecting Conciliation and Labour.

SHORT TITLE.

1. This Act may be cited as the Conciliation and Labour Act.

INTERPRETATION.

2. In this Act, unless the context otherwise requires—

(a) 'Minister' means the member of His Majesty's Council for Canada to whom, for the time being, the Governor in Council may assign the carrying out of the provisions of this Act ;

(b) 'railway' means any railway whether operated by steam, electricity or other motive power, and whether under the jurisdiction of the Parliament of Canada or of the legislature of any province ;

(c) 'railway employer' means any company or government owning or operating wholly or to a lesser extent any railway operated by steam, electricity or other motive power, and whether under the jurisdiction of the Parliament of Canada or of the legislature of any province ;

(d) 'railway employees' means persons engaged to perform any work, or service in respect of any railway whether operated by steam, electricity or other motive power, and whether under the jurisdiction of the Parliament of Canada or of the legislature of any province ;

(e) 'difference' means any dispute, disagreement or dissension which in the opinion of the Minister may have caused or may cause a lockout or strike on a railway or which has interfered or may interfere with the proper and efficient transportation of mails, passengers or freight, or the safety of persons employed upon any car or train ;

(f) 'committee' means the committee of conciliation, mediation and investigation established under the provisions of this Act ; 30

(g) 'board' means any board of arbitrators established under the provisions of this Act ;

(h) 'conciliation board' means any body constituted for the purpose of settling disputes between employers other than any railway employer and workmen by conciliation or arbitration, or any association or body authorised by an agreement in writing made between employers other than railway employers and workmen to deal with such disputes ;

(i) 'conciliator' means any person or persons appointed by the Minister to mediate between an employer of labour and his workmen ;

(j) 'lieutenant governor in council' means the Lieutenant Governor in Council of the province of Quebec, of Nova Scotia, of New Brunswick, or of Prince Edward Island.

APPENDIX.

No. 2.

The
Conciliation
and Labour
Act, R.S.C.,
1906,
Cap. 96
—continued.

TRADE DISPUTES.

3. Any conciliation board may apply to the Minister for registration.

(2) The application must be accompanied by copies of the constitution, by-laws and regulations of the conciliation board, with such other information as the Minister may reasonably require.

4. The Minister shall keep a register of conciliation boards, and enter therein with respect to each registered conciliation board, its name and principal office, and such other particulars as he thinks expedient ; and any registered conciliation board shall be entitled to have its name removed from the register on sending to the Minister a written application to that effect.

(2) Every registered conciliation board shall furnish such returns, reports of its proceedings, and other documents as the Minister may reasonably require.

20 5. The Minister may, on being satisfied that a registered conciliation board has ceased to exist or to act, remove its name from the register.

6. Where a dispute exists or is apprehended between an employer or any class of employers and workmen, or between different classes of workmen, the Minister may, if he thinks fit, exercise all or any of the following powers, namely :—

(a) Inquire into the causes and circumstances of the dispute ;

(b) Take such steps as to him seem expedient, for the purpose of enabling the parties to the dispute to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon or nominated by him, or by some other person or body, with a view to the amicable settlement of the dispute ;

(c) On the application of employers or workmen interested, and after taking into consideration the existence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint a conciliator ; and,

(d) On the application of both parties to the dispute, appoint an arbitrator or arbitrators.

(2) The conciliator shall inquire into the causes and circumstances of the dispute, by communication with the parties, and otherwise shall

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—continued.

endeavour to bring about a settlement of the dispute, and shall report the proceedings to the Minister.

(3) If a settlement of the dispute is effected either by conciliation or by arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the Minister.

7. It shall be the duty of the conciliator to promote conditions favourable to a settlement, by endeavouring to allay distrust, to remove causes of friction, to promote good feeling, to restore confidence, and to encourage the parties to come together and themselves effect a settlement, and also to promote agreements between employers and employees with a view to the submission of disputes to conciliation or arbitration before resorting to strikes or lockouts. 10

8. The conciliator or conciliation board may, when deemed advisable, invite others to assist them in the work of conciliation.

9. If, before a settlement is effected, and while the dispute is under the consideration of a conciliator or conciliation board, such conciliator or conciliation board is of opinion that some misunderstanding or disagreement appears to exist between the parties as to the causes or circumstances of the dispute, and, with a view to the removal of such misunderstanding or disagreement, desires an inquiry under oath into such causes and circumstances, and, in writing signed by such conciliator or the members of the conciliation board, as the case may be, communicates to the Minister such desire for inquiry, and if the parties to the dispute or their representatives in writing consent thereto, then, on his recommendation, the Governor in Council may appoint such conciliator or members of the conciliation board, or some other person or persons, a commissioner or commissioners, as the case may be, under the provisions of the Inquiries Act to conduct such inquiry, and, for that purpose, may confer upon him or them the powers which under the said Act may be conferred upon commissioners. 26 30

10. Proceedings before any conciliation board or arbitrators shall be conducted in accordance with the regulations of such conciliation board, or arbitrators, as the case may be, or as is agreed upon by the parties to the dispute.

11. If it appears to the Minister that in any district or trade adequate means do not exist for having disputes submitted to a conciliation board for the district or trade, he may appoint any person or persons to inquire into the conditions of the district or trade, and to confer with the employers and employed, and, if he thinks fit, with any local authority or body, as to the expediency of establishing a conciliation board for such district or trade. 40

STATISTICS.

12. With a view to the dissemination of accurate statistical and other information relating to the conditions of labour, the Minister shall establish

and have charge of a department of labour, which shall collect, digest, and publish in suitable form statistical and other information relating to the conditions of labour, shall institute and conduct inquiries into important industrial questions upon which adequate information may not at present be available, and issue at least once in every month a publication to be known as the *Labour Gazette*, which shall contain information regarding conditions of the labour market and kindred subjects, and shall be distributed or procurable in accordance with terms and conditions in that behalf prescribed by the Minister.

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The
Conciliation
and Labour
Act, R.S.C.,
1906,
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—continued.

10

RAILWAY DISPUTES.

13. Whenever a difference exists between any railway employer and railway employees, and it appears to the Minister that the parties thereto are unable satisfactorily to adjust the same, and that by reason of such difference remaining unadjusted a railway lockout or strike has been or is likely to be caused, or the regular and safe transportation of mails, passengers or freight has been or may be interrupted, or the safety of any person employed on a railway train or car has been or is likely to be endangered, the Minister may, either on the application of any party to the difference, or on the application of the corporation of any municipality
20 directly affected by the difference, or of his own motion, cause inquiry to be made into the same and the cause thereof, and, for that purpose, may, under his hand and seal of office, establish a committee of conciliation, mediation and investigation to be composed of three persons to be named, one by the railway employer, and one by the railway employees, parties to the difference, and the third by the two so named, or by the parties to the difference in case they can agree.

(2) The Minister shall in writing notify each party to name a member of the committee stating in such notice a time, not being later than five days after the receipt of such notice, within which this is to be done.

30 (3) If either party within such time or any extension thereof that the Minister, on cause shown, may grant, refuses or fails to name a member of the committee, the Minister or the lieutenant governor in council, as the case may be, as hereinafter provided, may appoint one in the place of the party so refusing or in default, and if the members of the committee so chosen fail to elect a third member, the Minister, or the lieutenant governor in council, as the case may be, may make such selection.

14. It shall be the duty of the committee to endeavour by conciliation and mediation to assist in bringing about an amicable settlement of the difference to the satisfaction of both parties, and to report its proceedings
40 to the Minister.

15. In case the conciliation committee is unable to effect an amicable settlement by conciliation or mediation the Minister may refer the difference to arbitration.

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(2) In such case a board of arbitrators shall be established by the Minister under his hand and seal of office, and shall consist of—

(a) if acceptable to both parties, the committee; or

(b) in case of objection by either party to its representative on the committee, or to the chairman of the committee, new representatives in place of the member or members of the committee objected to, appointed in like manner as the original members of the committee, and of such of the committee as against whom no objection has been so made.

16. If any member of such committee or board shall die, refuse, neglect or become incapable to act, a successor shall be appointed in like manner as is hereinbefore provided in respect of the original member of the committee or board, and the appointing authority shall endeavour to appoint only such person as shall not be reasonably objected to by either party.

(2) Before such appointment the name of the person proposed to be appointed shall be submitted to both parties to the difference, and there shall be afforded to each of them an opportunity, within such time as the Minister may fix, of making known to the appointing authority whether such proposed appointee is objected to.

17. In the event of the establishment of a committee of conciliation, mediation and investigation, or of a board of arbitrators to deal with any difference between the government of Canada, in respect of the Intercolonial Railway and the Prince Edward Island Railway, and any of its employees, the power to appoint conciliators or arbitrators which otherwise, in accordance with the foregoing provisions, might be exercisable by the Minister, shall be exercisable by the Lieutenant Governor in council whom the Minister shall for that purpose in each case of conciliation or arbitration in writing name.

18. The third member of the said committee or board shall be the chairman. 30

19. In case of arbitration pursuant to the provision hereinbefore contained, the findings and recommendation of the majority of the arbitrators shall be those of the board.

(2) In case of the absence of any one arbitrator from a meeting of the board, the other two arbitrators shall not proceed unless it is shown that the third arbitrator has been notified of the meeting in ample time to admit of his attendance.

20. Forthwith after the appointment of the board the chairman shall promptly convene the same, and the board shall, in such manner as it thinks advisable, make thorough, careful and expeditious inquiry into all the facts and circumstances connected with the difference, and the cause

thereof, and shall consider what would be reasonable and proper to be done by both or either of the parties with a view to put an end to the difference, and to prevent its recurrence, and shall, with all reasonable speed, make to the Minister a written report setting forth the various proceedings and steps taken by the board for the purpose of fully and correctly ascertaining all the facts and circumstances, and also setting forth said facts and circumstances, and its findings thereon, including the cause of the difference, and the board's recommendations, with a view to its removal, and the prevention of its recurrence.

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10 21. The Minister shall forthwith cause the report to be filed in the office of the department of labour, and a copy thereof to be sent free of charge to each party to the difference, and to any municipal corporation as aforesaid, and to the representative of any newspaper published in Canada who may apply therefor.

(2) Any other person shall be entitled to a copy on payment of the actual cost thereof.

22. For the information of Parliament and the public the report shall without delay be published in the *Labour Gazette*, and be included in the annual report of the said department to the Governor General.

20 23. For the purpose of such inquiry, the board shall have all the power of summoning before it any witnesses, and of requiring them to give evidence on oath, or on solemn affirmation, if they are persons entitled to affirm in civil matters, and produce such documents and things as the board deems requisite to the full investigation of the matters into which it is inquiring, and shall have the same powers to enforce the attendance of witnesses, and to compel them to give evidence as is vested in any court of record in civil cases; but no such witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

30 24. On the application of any of the parties, or on its own motion, the board may issue summonses to such persons as the board may think necessary to give evidence in the case.

(2) Any witness summoned by the board shall be entitled to free transportation over any railway *en route* when proceeding to the place of meeting of the board, and thereafter returning to his home, and the board shall furnish to such witness a proper certificate evidencing his right to such free transportation.

25. The summons shall be in such form as the Minister shall prescribe, and may require such person to produce before the board any books, papers,
40 or other documents in his possession or under his control, in any way relating to the proceedings.

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26. All books, papers, and other documents, produced before the board, whether voluntarily or in pursuance to summons, may be inspected by the board, and also by such of the parties as the board allows; but the information obtained therefrom shall not be made public, and such parts of the books, papers, and documents as, in the opinion of the board, do not relate to the matter at issue, may be sealed up.

27. The department of labour shall—

(a) pay to each member of a committee or board his actual travelling expenses, and also to each of them, other than the chairman, ten dollars per day for each day on which he shall attend a meeting of the committee or board, or be engaged in travelling from or to his home, being in Canada, for the purpose of attending or after having attended a meeting of the committee or board;

(b) pay to the chairman such sum as the Governor in Council deems reasonable; and

(c) at its expense, provide the committee or board with a stenographer, secretary and any other clerical assistance that to the Minister may appear necessary for the efficient carrying out of the provisions of this Act.

28. The report of the committee and the report of the board shall be signed by such of the members as concur therein, and may also be signed by a dissenting member.

29. No counsel or solicitor shall be entitled to appear before the board except with the consent of all parties to the difference and notwithstanding such consent, the board may, if it deems it advisable, decline to allow counsel or solicitors to appear before it.

(2) The parties to the difference may appear in person or by agents.

30. No court of the Dominion of Canada or of any province or territory shall have or possess any power or jurisdiction to recognise or enforce or to receive in evidence any report of any board of arbitrators or of any committee of conciliation, or any testimony or proceedings before either such board or committee as against any party or person, or for any purpose whatsoever, except in case of prosecution for perjury.

31. Where the difference, which is being inquired into, affects a class of employees, it shall not be necessary for them all to take part in the inquiry, but the class may be represented by a limited number chosen by a majority or by agents other than counsel or solicitors.

32. If, in any proceedings before the board, any person wilfully insults any member of the board, or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any unlawful contempt in the face of the board, it shall be lawful for any member

of the board or constable to take the person offending into custody and remove him from the precincts of the board, and retain him in custody until the rising of the board.

33. It shall be in the discretion of the board to conduct its proceedings in public or in private.

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No. 2.

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and Labour
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REGULATIONS.

34. The Minister may from time to time make, alter and amend regulations, as to the time within which any thing hereby authorised shall be done, and also as to any other matter or thing which appears to him necessary or advisable for the effectual working of the several provisions of this Act...

REPORT.

35. An annual report, with respect to the matters transacted by the Minister under this Act shall be made by him to the Governor-General, and shall be laid before Parliament within the first fifteen days of each session thereof.

EXPENSES.

36. The expenses incurred in the carrying out of this Act shall be defrayed out of the money provided for the purpose by Parliament.

20

No. 3.

STATUTES OF CANADA, 1907, 6-7 EDW. VII.

Chapter 20.

An Act to aid in the Prevention and Settlement of Strikes and Lockouts in Mines and Industries connected with Public Utilities.

[Assented to 22nd March, 1907.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. This Act may be cited as The Industrial Disputes Investigation Act, 1907.

30

PRELIMINARY.

Interpretation.

2. In this Act, unless the context otherwise requires—

(a) "Minister" means the Minister of Labour ;

(b) "department" means the Department of Labour ;

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Disputes
Investigation
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—continued.

(c) "employer" means any person, company or corporation employing ten or more persons and owning or operating any mining property, agency of transportation or communication, or public service utility, including, except as hereinafter provided, railways, whether operated by steam, electricity or other motive power, steamships, telegraph and telephone lines, gas, electric light, water and power works ;

(d) "employee" means any person employed by an employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry to which this Act applies ; 10

(e) "dispute" or "industrial dispute" means any dispute or difference between an employer and one or more of his employees, as to matters or things affecting or relating to work done or to be done by him or them, or as to the privileges, rights and duties of employers or employees (not involving any such violation thereof as constitutes an indictable offence) ; and, without limiting the general nature of the above definition, includes all matters relating to—

(1) the wages allowance or other remuneration of employees, or the price paid or to be paid in respect of employment ;

(2) the hours of employment, sex, age, qualification or status 20 of employees, and the mode, terms and conditions of employment ;

(3) the employment of children or any person or persons or class of persons, or the dismissal of or refusal to employ any particular person or persons or class of persons ;

(4) claims on the part of an employer or any employee as to whether and, if so, under what circumstances, preference of employment should or should not be given to one class over another of persons being or not being members of labour or other organisations, British subjects or aliens ;

(5) materials supplied and alleged to be bad, unfit or un- 30 suitable, or damage alleged to have been done to work ;

(6) any established custom or usage, either generally or in the particular district affected ;

(7) the interpretation of an agreement or a clause thereof ;

(f) "lockout" (without limiting the nature of its meaning) means a closing of a place of employment, or a suspension of work, or a refusal by an employer to continue to employ any number of his employees in consequence of a dispute, done with a view to compelling his employees, or to aid another employer in compelling his employees, to accept terms of employment ; 40

(g) "strike" or "to go on strike" (without limiting the nature of its meaning) means the cessation of work by a body of employees acting in combination, or a concerted refusal or a refusal under a common understanding of any number of employees to continue to work

for an employer, in consequence of a dispute, done as a means of compelling their employer, or to aid other employees in compelling their employer, to accept terms of employment ;

(h) " board " means a Board of Conciliation and Investigation established under the provisions of this Act ;

(i) " application " means an application for the appointment of a Board under the provisions of this Act ;

(j) " Registrar " means the Registrar of Boards of Conciliation and Investigation under this Act ;

10 (k) " prescribed " means prescribed by this Act, or by any rules or regulations made thereunder ;

(l) " trade union " or " union " means any organisation of employees formed for the purpose of regulating relations between employers and employees.

Administration.

3. The Minister of Labour shall have the general administration of this Act.

4. The Governor in Council shall appoint a Registrar of Boards of Conciliation and Investigation, who shall have the powers and perform
20 the duties prescribed.

(2) The office of Registrar may be held either separately or in conjunction with any other office in the public service, and in the latter case the Registrar may, if the Governor in Council thinks fit, be appointed, not by name, but by reference to such other office, whereupon the person who for the time being holds such office, or performs its duties, shall by virtue thereof be the Registrar.

BOARDS OF CONCILIATION AND INVESTIGATION.

Constitution of Boards.

5. Wherever any dispute exists between an employer and any of his
30 employees, and the parties thereto are unable to adjust it, either of the parties to the dispute may make application to the Minister for the appointment of a Board of Conciliation and Investigation, to which Board the dispute may be referred under the provisions of this Act : Provided, however, that, in the case of a dispute between a railway company and its employees, such dispute may be referred, for the purpose of conciliation and investigation, under the provisions concerning railway disputes in the Conciliation and Labour Act.

6. Whenever, under this Act, an application is made in due form for the appointment of a Board of Conciliation and Investigation, and
40 such application does not relate to a dispute which is the subject of a

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 Investigation
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reference under the provisions concerning railway disputes in the Conciliation and Labour Act, the Minister, whose decision for such purpose shall be final, shall, within fifteen days from the date at which the application is received, establish such Board under his hand and seal of office, if satisfied that the provisions of this Act apply.

7. Every Board shall consist of three members who shall be appointed by the Minister.

(2) Of the three members of the Board one shall be appointed on the recommendation of the employer and one on the recommendation of the employees (the parties to the dispute), and the third on the recommendation of the members so chosen.

8. For the purposes of appointment of the members of the Board, the following provisions shall apply :—

(1) Each party to the dispute may, at the time of making application or within five days after being requested so to do by the Minister, recommend the name of one person who is willing and ready to act as a member of the Board, and the Minister shall appoint such person a member of the Board.

(2) If either of the parties fails or neglects to duly make any recommendation within the said period, or such extension thereof as the Minister, on cause shown, grants, the Minister shall, as soon thereafter as possible, appoint a fit person to be a member of the Board; and such member shall be deemed to be appointed on the recommendation of the said party.

(3) The members chosen on the recommendation of the parties may, within five days after their appointment, recommend the name of one person who is willing and ready to act as a third member of the Board, and the Minister shall appoint such person a member of the Board.

(4) If the members chosen on the recommendation of the parties fail or neglect to duly make any recommendation within the said period, or such extension thereof as the Minister, on cause shown, grants, the Minister shall, as soon thereafter as possible, appoint a fit person to be a third member of the Board, and such member shall be deemed to be appointed on the recommendation of the two other members of the Board.

(5) The third member shall be the chairman of the Board.

9. As soon as possible after the full Board has been appointed by the Minister, the Registrar shall notify the parties of the names of the members of the Board and the chairman thereof, and such notification shall be final and conclusive for all purposes.

10. Every member of a Board shall hold office from the time of his appointment until the report of the Board is signed and transmitted to the Minister.

11. No person shall act as a member of a Board who has any direct pecuniary interest in the issue of a dispute referred to such Board.

12. Every vacancy in the membership of a Board shall be supplied in the same manner as in the case of the original appointment of every person appointed.

13. Before entering upon the exercise of the functions of their office the members of a Board, including the chairman, shall make oath or affirmation before a justice of the peace that they will faithfully and impartially perform the duties of their office, and also that, except in the discharge of their duties, they will not disclose to any person any of the evidence or other matter brought before the Board.

14. The department may provide the Board with a secretary, stenographer, or such other clerical assistance as to the Minister appears necessary for the efficient carrying out of the provisions of this Act.

Procedure for Reference of Disputes to Boards.

15. For the purpose of determining the manner in which, and the persons by whom, an application for the appointment of a Board is to be made, the following provisions shall apply:—

(1) The application shall be made in writing in the prescribed form, and shall be in substance a request to the Minister to appoint a Board to which the existing dispute may be referred under the provisions of this Act.

(2) The application shall be accompanied by:—

(a) A statement setting forth—

(1) the parties to the dispute;

(2) the nature and cause of the dispute, including any claims or demands made by either party upon the other, to which exception is taken;

(3) an approximate estimate of the number of persons affected or likely to be affected by the dispute;

(4) the efforts made by the parties themselves to adjust the dispute;

and—

(b) A statutory declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board of Conciliation and Investigation under the Act, to the best of the knowledge and belief of the declarant, a lockout or strike, as the case may be, will be declared, and that the necessary authority to declare such lockout or strike has been obtained.

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(3) The application may mention the name of a person who is willing and ready and desires to act as a member of the Board representing the party or parties making the application.

16. The application and the declaration accompanying it—

(1) if made by an employer, an incorporated company or corporation, shall be signed by some one of its duly authorised managers or other principal executive officers ;

(2) if made by an employer other than an incorporated company or corporation, shall be signed by the employer himself in case he is an individual, or a majority of the partners or members in case of a 10 partnership firm or association ;

(3) if made by employees members of a trade union, shall be signed by two of its officers duly authorised by a majority vote of the members of the union, or by a vote taken by ballot of the members of the union present at a meeting called on not less than three days' notice for the purpose of discussing the question ;

(4) if made by employees some or all of whom are not members of a trade union, shall be signed by two of their number duly authorised by a majority vote taken by ballot of the employees present at a meeting called on not less than three days' notice for the purpose of 20 discussing the question.

17. Every application for the appointment of a Board shall be transmitted by post by registered letter addressed to the Registrar of Boards of Conciliation and Investigation, Department of Labour, Ottawa, and the date of the receipt of such registered letter at the department shall be regarded as the date of the receipt of such application.

18. In every case where an application is made for the appointment of a Board the party making application shall, at the time of transmitting it to the Registrar, also transmit by registered letter to the other party to the dispute, or by personal delivery, a copy of the application and of the 30 accompanying statement and declaration.

19. Upon receipt by either party to a dispute of a copy of the application for the appointment of a Board such party shall, without delay, prepare a statement in reply to the application and transmit it by registered letter, or by personal delivery, to the Registrar and to the party making the application.

20. Copies of applications or statements in reply thereto, to be transmitted to the other party under any of the preceding sections where the other party is :—

(1) an employer, an incorporated company or corporation, shall 40 be sent to the manager or other principal executive officer of the company or corporation ;

(2) an employer other than an incorporated company or corporation, shall be sent to the employer himself or to the employer in the name of the business or firm as commonly known ;

(3) composed of employees, members of a trade union, shall be sent to the president and secretary of such union ;

(4) composed of employees some or all of whom are not members of a trade union :—

10 (a) Where some of the employees are members of a trade union, shall be sent to the president and secretary of the union as representing the employees belonging to the union ; also

(b) Where some of the employees are not members of a trade union and there are no persons authorized to represent such employees, shall be sent to ten of their number ;

(c) Where, under paragraph (4) of section 16, two persons have been authorized to make an application, shall be sent to such two persons.

Functions, Powers and Procedure of Boards.

21. Any dispute may be referred to a Board by application in that behalf made in due form by any party thereto ; provided that no dispute shall be the subject of reference to a Board under this Act in any case in which the employees affected by the dispute are fewer than ten.

22. Upon the appointment of the Board the Registrar shall forward to the chairman a copy of the application for the appointment of such Board, and of its accompanying statement and declaration, and of the statement in reply, and the Board shall forthwith proceed to deal with the matters referred to in these documents.

23. In every case where a dispute is duly referred to a Board it shall be the duty of the Board to endeavour to bring about a settlement of the dispute, and to this end the Board shall, in such manner as it thinks fit, 30 expeditiously and carefully inquire into the dispute and all matters affecting the merits thereof and the right settlement thereof. In the course of such inquiry the Board may make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period the Board thinks reasonable to allow the parties to agree upon terms of settlement.

24. If a settlement of the dispute is arrived at by the parties during the course of its reference to the Board, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and shall, if the 40 parties so agree, be binding as if made a recommendation by the Board, under section 62 of this Act, and a copy thereof with a report upon the proceedings shall be forwarded to the Minister.

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25. If a settlement of the dispute is not arrived at during the course of its reference to the Board, the Board shall make a full report thereon to the Minister, which report shall set forth the various proceedings and steps taken by the Board for the purpose of fully and carefully ascertaining all the facts and circumstances, and shall also set forth such fact, and circumstances, and its findings therefrom, including the cause of the dispute and the Board's recommendation for the settlement of the dispute according to the merits and substantial justice of the case.

26. The Board's recommendation shall deal with each item of the dispute and shall state in plain terms, and avoiding as far as possible all technicalities, what in the Board's opinion ought or ought not to be done by the respective parties concerned. Wherever it appears to the Board expedient so to do, its recommendation shall also state the period during which the proposed settlement should continue in force, and the date from which it should commence.

27. The Board's report and recommendation shall be made to the Minister in writing, and shall be signed by such of the members as concur therein, and shall be transmitted by the chairman by registered letter to the Registrar as soon as practicable after the reference of the dispute to the Board; and in the same manner a minority report may be made by any dissenting member of the Board.

28. Upon receipt of the Board's report the Minister shall forthwith cause the report to be filed in the office of the Registrar and a copy thereof to be sent free of charge to the parties to the dispute, and to the representative of any newspaper published in Canada who applies therefor, and the Minister may distribute copies of the report, and of any minority report, in such manner as to him seems most desirable as a means of securing a compliance with the Board's recommendation. The Registrar shall, upon application, supply certified copies for a prescribed fee, to persons other than those mentioned in this section.

29. For the information of Parliament and the public, the report and recommendations of the Board, and any minority report, shall, without delay, be published in the *Labour Gazette*, and be included in the annual report of the Department of Labour to the Governor-General.

30. For the purpose of its inquiry the Board shall have all the powers of summoning before it, and enforcing the attendance of witnesses, of administering oaths, and of requiring witnesses to give evidence on oath or on solemn affirmation (if they are persons entitled to affirm in civil matters) and to produce such books, papers or other documents or things as the Board deems requisite to the full investigation of the matters into which it is inquiring, as is vested in any court of record in civil cases.

2. Any member of the Board may administer an oath, and the Board may accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

31. The summons shall be in the prescribed form, and may require any person to produce before the Board any books, papers or other documents or things in his possession or under his control in any way relating to the proceedings.

32. All books, papers and other documents or things produced before the Board, whether voluntarily or in pursuance to summons, may be inspected by the Board, and also by such parties as the Board allows; but the information obtained therefrom shall not, except in so far as the Board deems it expedient, be made public, and such parts of the books, papers or other documents as in the opinion of the Board do not relate to the matter at issue may be sealed up.

33. Any party to the proceedings shall be competent and may be compelled to give evidence as a witness.

34. Every person who is summoned and duly attends as a witness shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil suits in the superior courts in the province where the inquiry is being conducted.

35. Where a reference has been made to the Board of a dispute between a railway company and its employees, any witness summoned by the Board in connection with the dispute shall be entitled to free transportation over any railway en route when proceeding to the place of meeting of the Board and thereafter returning to his home, and the Board shall furnish to such witness a proper certificate evidencing his right to such free transportation.

36. If any person who has been duly served with such summons and to whom at the same time payment or tender has been made of his reasonable travelling expenses according to the aforesaid scale, fails to duly attend or to duly produce any book, paper or other document or thing as required by his summons, he shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars, unless he shows that there was good and sufficient cause for such failure.

37. If, in any proceedings before the Board, any person wilfully insults any member of the Board or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the Board, any officer of the Board or any constable may take the person offending into custody and remove him from the precincts of the Board, to be detained in custody until the rising of the Board, and the person so offending shall be liable to a penalty not exceeding one hundred dollars.

38. The Board, or any member thereof, and, on being authorized in writing by the Board, any other person, may, without any other warrant than this Act, at any time, enter any building, mine, mine workings, ship, vessel, factory, workshop, place or premises of any kind, wherein, or in

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respect of which, any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking place or has taken place, which has been made the subject of a reference to the Board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such building, mine, mine workings, ship, vessel, factory, workshop, place or premises as aforesaid, in respect of or in relation to any matter or thing hereinbefore mentioned, and any person who hinders or obstructs the Board or any such person authorized as aforesaid, in the exercise of any power conferred by this section, shall be guilty of an offence and be liable to a penalty not exceeding 10 one hundred dollars.

39. Any party to a reference may be represented before the Board by three or less than three persons designated for the purpose, or by counsel or solicitor where allowed as hereinafter provided.

40. Every party appearing by a representative shall be bound by the acts of such representative.

41. No counsel or solicitor shall be entitled to appear or be heard before the Board, except with the consent of the parties to the dispute, and notwithstanding such consent the Board may decline to allow counsel or solicitors to appear.

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42. Persons other than British subjects shall not be allowed to act as members of a Board.

43. If, without good cause shown, any party to proceedings before the Board fails to attend or to be represented, the Board may proceed as if he had duly attended or had been represented.

44. The sittings of the Board shall be held at such time and place as are from time to time fixed by the chairman, after consultation with the other members of the Board, and the parties shall be notified by the chairman as to the time and place at which sittings are to be held: Provided that, so far as practicable, the Board shall sit in the locality within which the 30 subject-matter of the proceeding before it arose.

45. The proceedings of the Board shall be conducted in public; provided that at any such proceedings before it, the Board, on its own motion, or on the application of any of the parties, may direct that the proceedings shall be conducted in private and that all persons other than the parties, their representatives, the officers of the Board and the witnesses under examination shall withdraw.

46. The decision of a majority of the members present at a sitting of the Board shall be the decision of the Board, and the findings and recommendations of the majority of its members shall be those of the Board. 40

47. The presence of the chairman and at least one other member of the Board shall be necessary to constitute a sitting of the Board.

48. In case of the absence of any one member from a meeting of the Board the other two members shall not proceed, unless it is shown that the third member has been notified of the meeting in ample time to admit of his attendance.

(2) If any member of a Board dies, or becomes incapacitated, or refuses or neglects to act, his successor shall be appointed in the manner provided with respect to the original member of the Board.

10 49. The Board may at any time dismiss any matter referred to it which it thinks frivolous or trivial.

50. The Board may, with the consent of the Minister, employ competent experts or assessors to examine the books or official reports of either party, and to advise it upon any technical or other matter material to the investigation, but shall not disclose such reports or the results of such inspection or examination under this section without the consent of both the parties to the dispute.

Remuneration and Expenses of Board.

51. The members of a Board while engaged in the adjustment of a
20 dispute shall be remunerated for their services as follows:—

(a) to members other than the chairman—

(i) an allowance of five dollars a day for a time not exceeding three days during which the members may be actually engaged in selecting a third member of the Board;

(ii) an allowance of fifteen dollars for each whole day's sittings of the Board;

(iii) an allowance of seven dollars for each half-day's sittings of the Board;

30 (b) the Chairman shall be allowed twenty dollars a day for each whole day's sittings of the Board, and ten dollars a day for each half-day's sittings;

(c) no allowances shall be made to any member of the Board on account of any sitting of the Board which does not extend over a half-day, unless it is shown to the satisfaction of the Minister that such meeting of the Board was necessary to the performance of its duties as speedily as possible, and that the causes which prevented a half-day's sitting of the Board were beyond its control.

40 52. No member of the Board shall accept in addition to his salary as a member of the Board any perquisite or gratuity of any kind, from any corporation, association, partnership or individual in any way interested in any matter or thing before or about to be brought before the Board in accordance with the provisions of this Act. The accepting of such per-

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quisite or gratuity by any member of the Board shall be an offence and shall render such member liable to a fine not exceeding one thousand dollars.

53. Each member of the Board will be entitled to his actual necessary travelling expenses for each day that he is engaged in travelling from or to his place of residence for the purpose of attending or after having attended a meeting of the Board.

54. All expenses of the Board, including expenses for transportation incurred by the members thereof or by persons under its order in making investigations under this Act, salaries of employees and agents, and fees and mileage to witnesses shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the Board, which vouchers shall be forwarded by the chairman to the Minister. The chairman shall also forward to the Minister a certified and detailed statement of the sittings of the Board, and of the members present at such sittings.

DUTIES OF THE REGISTRAR.

55. It shall be the duty of the Registrar :—

(a) to receive and register, and, subject to the provisions of this Act, to deal with all applications by employers or employees for a reference of any dispute to a Board, and to at once bring to the Minister's attention every such application ;

(b) to conduct such correspondence with the parties and members of Boards as may be necessary to constitute any Board as speedily as possible in accordance with the provisions of this Act ;

(c) to receive and file all reports and recommendations of Boards, and conduct such correspondence and do such things as may assist in rendering effective the recommendations of the Boards, in accordance with the provisions of this Act ;

(d) to keep a register in which shall be entered the particulars of all applications, references, reports and recommendations relating to the appointment of a Board, and its proceedings ; and to safely keep all applications, statements, reports, recommendations and other documents relating to proceedings before the Board, and, when so required, transmit all or any of such to the Minister ;

(e) to supply to any parties, on request, information as to this Act, or any regulations or proceedings thereunder, and also to furnish parties to a dispute and members of the Board with necessary blank forms, forms of summons or other papers or documents required in connection with the effective carrying out of the provisions of this Act ;

(f) generally, to do all such things and take all such proceedings as may be required in the performance of his duties prescribed under this Act or any regulations thereunder.

STRIKES AND LOCKOUTS PRIOR TO AND PENDING A
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56. It shall be unlawful for any employer to declare or cause a lockout, or for any employee to go on strike, on account of any dispute prior to or during a reference of such dispute to a Board of Conciliation and Investigation under the provisions of this Act, or prior to or during a reference under the provisions concerning railway disputes in the Conciliation and Labour Act: Provided that nothing in this Act shall prohibit the suspension or discontinuance of any industry or of the working of any persons
10 therein for any cause not constituting a lockout or strike: Provided also that, except where the parties have entered into an agreement under Section 62 of this Act, nothing in this Act shall be held to restrain any employer from declaring a lockout, or any employee from going on strike in respect of any dispute which has been duly referred to a Board and which has been dealt with under Section 24 or 25 of this Act, or in respect of any dispute which has been the subject of a reference under the provisions concerning railway disputes in the Conciliation and Labour Act.

57. Employers and employees shall give give at least thirty days' notice of an intended change affecting conditions of employment with
20 respect to wages or hours; and in every case where a dispute has been referred to a Board, until the dispute has been finally dealt with by the Board, neither of the parties nor the employees affected shall alter the conditions of employment with respect to wages or hours, or on account of the dispute do or be concerned in doing, directly or indirectly, anything in the nature of a lockout or strike, or a suspension or discontinuance of employment or work, but the relationship of employer and employee shall continue uninterrupted by the dispute, or anything arising out of the dispute; but if, in the opinion of the Board, either party uses this or any
30 other provision of this Act for the purpose of unjustly maintaining a given condition of affairs through delay, and the Board so reports to the Minister, such party shall be guilty of an offence, and liable to the same penalties as are imposed for a violation of the next preceding section.

58. Any employer declaring or causing a lockout contrary to the provisions of this Act shall be liable to a fine of not less than one hundred dollars, nor more than one thousand dollars for each day or part of a day that such lockout exists.

59. Any employee who goes on strike contrary to the provisions of this Act shall be liable to a fine of not less than ten dollars nor more than fifty dollars, for each day or part of a day that such employee is on strike.

40 60. Any person who incites, encourages or aids in any manner any employer to declare or continue a lockout, or any employee to go or continue on strike contrary to the provisions of this Act, shall be guilty of an offence and liable to a fine of not less than fifty dollars nor more than one thousand dollars.

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61. The procedure for enforcing penalties imposed or authorised to be imposed by this Act shall be that prescribed by Part XV. of *The Criminal Code* relating to summary convictions.

SPECIAL PROVISIONS.

62. Either party to a dispute which may be referred under this Act to a Board may agree in writing, at any time before or after the Board has made its report and recommendation, to be bound by the recommendation of the Board in the same manner as parties are bound upon an award made pursuant to a reference to arbitration on the order of a court of record; every agreement so to be bound made by one party shall be forwarded to 10 the Registrar who shall communicate it to the other party, and if the other party agrees in like manner to be bound by the recommendation of the Board, then the recommendation shall be made a rule of the said court on the application of either party and shall be enforceable in like manner.

63. In the event of a dispute arising in any industry or trade other than such as may be included under the provisions of this Act, and such dispute threatens to result in a lockout or strike, or has actually resulted in a lockout or strike, either of the parties may agree in writing to allow such dispute to be referred to a Board of Conciliation and Investigation, to be constituted under the provisions of this Act. 20

(2) Every agreement to allow such reference shall be forwarded to the Registrar, who shall communicate it to the other party, and if such other party agrees in like manner to allow the dispute to be referred to a Board, the dispute may be so referred as if the industry or trade and the parties were included within the provisions of this Act.

(3) From the time that the parties have been notified in writing by the Registrar that in consequence of their mutual agreement to refer the dispute to a Board under the provisions of this Act, the Minister has decided to refer such dispute, the lockout or strike, if in existence, shall forthwith cease, and the provisions of this Act shall bind the parties. 30

MISCELLANEOUS.

64. No Court of the Dominion of Canada, or of any province or territory thereof, shall have power or jurisdiction to recognize or enforce, or to receive in evidence any report of a Board, or any testimony or proceedings before a Board, as against any person or for any purpose, except in the case of the prosecution of such person for perjury.

65. No proceeding under this Act shall be deemed invalid by reason of any defect of form or any technical irregularity.

66. The Minister shall determine the allowance or amounts to be paid to all persons other than the members of a Board, employed by the Govern- 40 ment or any Board, including the Registrar, secretaries, clerks, experts, stenographers or other persons performing any services under the provisions of this Act.

67. In case of prosecutions under this Act, whether a conviction is or is not obtained, it shall be the duty of the clerk of the court before which any such prosecution takes place to briefly report the particulars of such prosecution to the Registrar within thirty days after it has been determined, and such clerk shall be entitled to a prescribed fee in payment of his services.

68. The Governor in Council may make regulations as to the time within which anything hereby authorized shall be done, and also as to any other matter or thing which appears to him necessary or advisable to the effectual working of the several provisions of this Act. All such regulations shall go into force on the day of the publication thereof in *The Canada Gazette*, and they shall be laid before Parliament within fifteen days after such publication, or, if Parliament is not then in Session, within fifteen days after the opening of the next session thereof.

69. All charges and expenses incurred by the Government in connection with the administration of this Act shall be defrayed out of such appropriations as are made by Parliament for that purpose.

70. An Annual report with respect to the matters transacted by him under this Act shall be made by the Minister to the Governor-General, and shall be laid before Parliament within the first fifteen days of each session thereof.

STATUTES OF CANADA, 1910, 9-10 EDWARD VII.

Chapter 29.

An Act to amend the Industrial Disputes Investigation Act, 1907

[Assented to 4th May, 1910.]

His Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. Section 13 of *The Industrial Disputes Investigation Act*, 1907, is amended by adding after the word "peace" in the third line thereof the words "or other person authorised to administer an oath or affirmation."

2. Subparagraph (b) of paragraph 2 of section 15 of the said Act is repealed and the following is substituted therefor :—

"(b) A statutory declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarant a lockout or strike will be declared, and (except where the application is made by an employer in consequence of an intended change in wages or hours proposed by the said employer) that the necessary authority to declare such lockout or strike has been obtained; or, where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorised to carry on negotiations in disputes between employers and employees and so recognised by the employer, a statutory declaration by the chairman or president and by

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“ the secretary of such committee setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarants a strike will be declared, that the dispute has been the subject of negotiations between the committee and the employer, that all efforts to obtain a satisfactory settlement have failed, and that there is no reasonable hope of securing a settlement by further negotiations.”

3. Paragraph (3) of section 16 of the said Act is amended by adding at the end thereof the following: “ or, where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorised to carry on negotiations in disputes between employers and employees, and so recognised by the employer, may be signed by the chairman or president and by the secretary of the said committee.”

4. Section 51 of the said Act is repealed and the following is substituted therefor:—

“ 51. The members of a Board shall be remunerated for their services as follows:—

“ (a) to members other than the chairman, an allowance of five dollars a day for a time not exceeding three days during which the members may be actually engaged in selecting a third member of the Board;

“ (b) to each member of the Board, including the chairman, an allowance at the rate of twenty dollars for each day's sitting of the Board and for each day necessarily engaged in travelling from or to his place of residence to attend or after attending a meeting of the Board.”

5. Section 57 of the said Act is amended as follows: by striking out the third and fourth lines thereof the words “ and in every case where a dispute has been referred to a Board,” and substituting therefor the words “ and in the event of such intended change resulting in a dispute;” by substituting the word “ a ” for the word “ the ” before the word “ Board ” in the fifth line thereof; and by striking out the words “ nor the employees ” in the sixth line thereof.

STATUTES OF CANADA, 1918, 8-9 GEORGE V.

Chapter 27.

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An Act to amend The Industrial Disputes Investigation Act, 1907.

[Assented to 24th May, 1918.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The following paragraph is inserted immediately after paragraph (d) of section two of *The Industrial Disputes Investigation Act, 1907*:— 40

“ (dd) A lockout or strike shall not, nor, where application for a Board is made within thirty days after the dismissal, shall any

“dismissal, cause any employee to cease to be an employee, or an employer to cease to be an employer, within the meaning and for the purposes of this Act.”

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2. Section 6 of the said Act is repealed and the following is substituted therefor :—

“6. (1) Whenever, under this Act, an application is made in due form for the appointment of a Board of Conciliation and Investigation, the Minister shall, within fifteen days from the date at which the application is received, establish such Board under his hand and seal of office, if satisfied that the provisions of this Act apply.

“(2) The decision of the Minister as to the granting or refusal of a Board shall be final, and when a Board is granted by the Minister, it shall be conclusively deemed to be authorised by and to be in accordance with the provisions of this Act, and no order shall be made or process or proceeding had or taken in any court to question the granting or refusal of a Board, or to review, prohibit, or restrain the establishment of such Board or the proceedings thereof.”

3. Section ten of the said Act is amended by adding at the end thereof the following :—

“and for the purposes of sub-section two of section twenty-nine of this Act, from the time the Board is reconvened by the Chairman until the report required under such section is transmitted to the Minister.”

4. Section twenty-two of the said Act is amended by adding thereto the following sub-section :—

“(2) Should it at any stage of the proceedings be made to appear to the Minister that it is necessary, in order to deal satisfactorily with the matters in dispute, that some other matter or matters involved in or incidental to those appearing in the application and statement in answer, if any, should also be referred to the Board, the Minister may under his hand and seal of office refer such matters to the Board accordingly.”

5. Section twenty-nine of the said Act is repealed and the following is substituted therefor :—

“29. (1) For the information of Parliament and the public, the report and recommendations of the Board, and any minority report, shall, without delay, be published in the *Labour Gazette*, either verbatim or in summary form as the Minister may determine.

“(2) Where any question arises as to the meaning or application of, or as to anything relating to or connected with :—

“(a) any recommendation made by the Board, or
“(b) any settlement agreement drawn up by the Board under section twenty-four of this Act,

APPENDIX.
 No. 3.
 The
 Industrial
 Disputes
 Investigation
 Act
 (amended by)
 8-9 Geo. V.,
 Cap. 27
 —continued.

“ the Minister, where he deems it expedient, may, on the application of
 “ either party or of his own motion, request from the chairman of the Board
 “ an expression of the Board’s opinion upon such question, and the chairman
 “ shall upon receipt of such request reconvene the Board, and the Board
 “ shall as soon as practicable report to the Minister its opinion upon such
 “ question.”

6. The said Act is amended by inserting the following sections immediately after section sixty-three thereof :—

“ 63A. Where in any industry any strike or lockout has occurred,
 “ and in the public interest or for any other reason it seems to the Minister 10
 “ expedient, the Minister, on the application of any municipality interested,
 “ or of the mayor, reeve, or other head officer or acting head officer thereof,
 “ or of his own motion, may, without application of either of the parties
 “ to the dispute, strike, or lockout, whether it involves one or more em-
 “ ployers or employees in the employ of one or more employers, constitute
 “ a Board of Conciliation and Investigation under this Act in respect of
 “ any dispute, or strike or lockout, or may in any such case, if it seems
 “ to him expedient, either with or without an application from any inter-
 “ ested party, recommend to the Governor in Council the appointment
 “ of some person or persons as commissioner or commissioners under the 20
 “ provisions of the *Inquiries Act* to inquire into the dispute, strike or lock-
 “ out, or into any matters or circumstances connected therewith.

“ 63B. The Minister, where he deems it expedient, may, either upon or
 “ without any application in that behalf, make or cause to be made any
 “ inquiries he thinks fit regarding industrial matters, and may cause such
 “ steps to be taken by his department and the officers thereof as seem
 “ calculated to secure industrial peace and to promote conditions favour-
 “ able to settlement of disputes.”

No. 3.
 The
 Industrial
 Disputes
 Investigation
 Act
 (amended by)
 10-11 Geo. V.,
 Cap. 29.

STATUTES OF CANADA 1919-20, 10-11 GEORGE V.

Chapter 29.

30

An Act to amend the Industrial Disputes Investigation Act, 1907.

[Assented to 16th June, 1920.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. Paragraph (c) of section two of *The Industrial Disputes Investigation Act*, 1907, is amended by adding the following words at the end thereof :—

“ or any number of such persons, companies or corporations acting
 “ together, or who in the opinion of the Minister have interests in
 “ common.”

2. Section sixteen of the said Act, as amended by section three of chapter twenty-nine of the statutes of 1910, is repealed, and the following is substituted therefor:—

APPENDIX.
No. 3.
The
Industrial
Disputes
Investigation
Act
(amended by)
10-11 Geo. V.,
Cap. 29
—continued.

“ 16. (1) The application and the declaration accompanying it shall be signed, if made—

“ (a) by an employer who is an individual, by the employer himself ;

“ (b) by an employer which is a partnership, firm or association, by a majority of the partners or members ;

10 “ (c) by an employer which is an incorporated company or corporation, by some one of its duly authorised managers or by one or more of the principal executive officers ;

“ (d) by employees who are members of a trade union, by two of its officers authorised in writing by a majority of the union members affected. If such authorisation is obtained by a vote taken in whole or in part at a meeting such meeting shall be called on not less than three days' notice and the vote shall be by ballot. Where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorised to carry on negotiations in disputes between employers and employees, and so recognized by the employer, may be signed by the chairman or president and by the secretary of the said committee ;

20 “ (e) by employees some or all of whom are not members of a trade union, by two of their number authorised in writing by a majority of such employees. If such authorisation is obtained in whole or in part by a vote at a meeting, such meeting shall be called on not less than three days' notice and the vote shall be by ballot.

30 “ (2) If more than one employer, or more than one trade union, or the employees of more than one employer, is or are interested, then and in such case the application and declaration shall be signed in the manner aforesaid by or on behalf of each employer or trade union or the employees of each employer so interested, or by or on behalf of a majority of such employers, or trade unions, or of such employees.”

3. Section twenty of the said Act is amended by substituting in subparagraph (c) of paragraph (4) for the words “ paragraph (4) of section 16 ” the words “ paragraph (e) of subsection (1) of section sixteen,” and also by adding the following subsections:—

40 “ (2) When the other party comprises more than one employer and those employers are members of an association authorised to carry on negotiations in disputes between employers and employees, copies of applications or statements in reply shall be transmitted to the secretary or principal executive officer of such association ; when no such association exists copies of the applications or statements in reply shall be transmitted to each employer individually, or by agreement one employer may be designated by the individual employers concerned to receive copies of applications or statements in reply.

APPENDIX.
 No. 3.
 The
 Industrial
 Disputes
 Investigation
 Act
 (amended by)
 10-11 Geo.V.,
 Cap. 29
 —continued.

“(3) When in any individual industry the other party comprises more than one trade union and the latter are grouped in a council or federation authorised to carry on negotiations between employers or employees, copies of applications or statements in reply shall be transmitted to the president or secretary of such council or federation ; when no such council or federation exists, copies of applications or statements in reply shall be transmitted to the president or secretary of each individual union.”

4. Section thirty-four of the said Act is amended by adding at the end thereof the following words: “with a minimum allowance of four dollars per day.” 10

5. Section fifty-seven of the said Act, as amended by section five of chapter twenty-nine of the statutes of 1910, is hereby further amended by substituting for the words in the first six lines thereof down to “alter” inclusive the following:—

“57. Employers and employees shall give at least thirty days’ notice of an intended change affecting conditions of employment with respect to wages or hours ; and in the event of such intended change resulting in a dispute, until the dispute has been finally dealt with by a Board, and a copy of its report has been delivered through the Registrar to both the parties affected, neither of those parties shall alter.” 20

6. Section sixty-three (A) of the said Act as enacted by chapter twenty-seven of the statutes of 1918 is amended by inserting after the word “occurred” in the second line the words “or seems to the Minister to be imminent.”

No. 4.
 The Labour
 Department
 Act,
 8-9 Edw. VII.
 (Canada),
 Cap. 22.

No. 4.

STATUTES OF CANADA, 8-9 EDWARD VII.

Chapter 22.

An Act respecting the Department of Labour.

[Assented to 19th May, 1909.]

His Majesty, by and with the advice and consent of the Senate and 30 House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Labour Department Act*.

2. There shall be a department of the Government of Canada which shall be called the Department of Labour, over which the Minister of Labour for the time being, appointed by the Governor-General by Commission under the Great Seal, shall preside.

(2) The Minister of Labour shall hold office during pleasure, and shall have the management and direction of the department.

(3) The salary of the Minister of Labour shall be seven thousand dollars per annum.

3. The Governor-in-Council may also appoint an officer who shall be called the Deputy Minister of Labour, and such officers, clerks and servants as are requisite for the proper conduct of the business of the department, all of whom shall hold office during pleasure.

4. The Minister of Labour shall be charged with the administration of *The Conciliation and Labour Act* and *The Industrial Disputes Investigation Act*, 1907, and with such other duties as may be assigned to him by the
10 Governor-in-Council.

APPENDIX.

No. 4.
The Labour
Department
Act,
8-9 Edw. VII.
(Canada),
Cap. 22
—continued.

No. 5.

REVISED STATUTES OF CANADA, 1906.

CHAPTER 104.

An Act respecting Public and Departmental Inquiries.

Short Title.

1. This Act may be cited as the Inquiries Act.

PART I.

PUBLIC INQUIRIES.

2. The Governor in Council may, whenever he deems it expedient,
20 cause inquiry to be made into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof.

3. In case such inquiry is not regulated by any special law, the Governor in Council may, by a commission in the case, appoint persons as commissioners by whom the inquiry shall be conducted.

4. The Commissioners shall have the power of summoning before them any witnesses, and of requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as the commissioners
30 deem requisite to the full investigation of the matters into which they are appointed to examine.

5. The Commissioners shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases.

No. 5.
The Inquiries
Act,
R.S.C., 1906
Cap. 104.

PART II.

DEPARTMENTAL INVESTIGATIONS.

APPENDIX.
 —
 No. 5,
 The Inquiries
 Act,
 R.S.C., 1906,
 Cap. 104
 —continued.

6. The Minister presiding over any department of the Civil Service of Canada may appoint at any time, under the authority of the Governor in Council, a commissioner or commissioners to investigate and report upon the state and management of the business, or any part of the business, of such department, either in the inside or outside service thereof, and the conduct of any person in such service, so far as the same relates to his official duties.

7. The commissioner or commissioners may, for the purposes of the investigation, enter into and remain within any public office or institution, and shall have access to every part thereof, and may examine all papers, documents, vouchers, records and books of every kind belonging thereto, and may summon before him or them any person and require him to give evidence on oath, orally or in writing, or on solemn affirmation if he is entitled to affirm in civil matters; and any such commissioner may administer such oath or affirmation.

8. The commissioner or commissioners may, under his or their hand or hands, issue a subpoena or other request or summons, requiring and commanding any person therein named to appear at the time and place mentioned therein, and then and there to testify to all matters within his knowledge relative to the subject-matter of such investigation, and to bring with him and produce any document, book, or paper, which he has in his possession or under his control relative to any such matter as aforesaid; and any such person may be summoned from any part of Canada by virtue of such subpoena, request or summons.

(2) Reasonable travelling expenses shall be paid to any person so summoned at the time of service of the subpoena, request or summons.

9. If, by reason of the distance at which any person, whose evidence is desired, resides from the place where his attendance is required, or for any other cause, the commissioner or commissioners deem it advisable, he or they may issue a commission or other authority to any officer or person therein named, empowering him to take such evidence and report the same to him or them.

(2) Such officer or person shall, before entering on any investigation, be sworn before a justice of the peace faithfully to execute the duty entrusted to him by such commission, and shall, with regard to such evidence, have the same powers as the commissioner or commissioners would have had if such evidence had been taken before him or them, and may, in like manner, under his hand issue a subpoena or other request or summons for the purpose of compelling the attendance of any person, or the production of any document, book or paper.

10. Every person who—

(a) being required to attend in the manner in this Part provided, fails, without valid excuse, to attend accordingly; or,

- (b) being commanded to produce any document, book or paper, in his possession or under his control, fails to produce the same ; or
 (c) refuses to be sworn or to affirm, as the case may be ; or,
 (d) refuses to answer any proper question put to him by a commissioner, or other person as aforesaid :

shall, on summary conviction before any police or stipendiary magistrate, or judge of a superior or county court having jurisdiction in the county or district in which such person resides, or in which the place is at which he was so required to attend, be liable to a penalty not exceeding four hundred 10 dollars.

(2) The judge of the superior or county court aforesaid shall, for the purposes of this Part, be a justice of the peace.

APPENDIX.
 No. 5.
 The Inquiries
 Act,
 R.S.C., 1906,
 Cap. 104
 —continued.

STATUTES OF CANADA, 2 GEORGE V.

Chapter 28.

An Act to amend the Inquiries Act.

[Assented to 12th March, 1912.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. *The Inquiries Act*, chapter 104 of the Revised Statutes, 1906, is 20 amended by adding thereto the following sections :—

“ (11) The commissioners, whether appointed under Part I. or under
 “ Part II. of this Act, if thereunto authorized by the commission issued in
 “ the case, may engage the services of such accountants, engineers, technical
 “ advisers, or other experts, clerks, reporters and assistants as they deem
 “ necessary or advisable, and also the services of counsel to aid and assist
 “ the commissioners in the inquiry, and the commissioners may authorize
 “ and depute any such accountants, engineers, technical advisers, or other
 “ experts, or any other qualified persons, to inquire into any matter, within
 “ the scope of the commission as may be directed by the commissioners,
 30 “ and such persons, when authorized by order in council, shall, in the
 “ execution of the powers so deputed or authorized, have the same powers
 “ which the commissioners have to take evidence, issue subpoenas, enforce
 “ the attendance of witnesses, compel them to give evidence, and otherwise
 “ conduct the inquiry, and such persons shall report the evidence and their
 “ findings, if any, thereon to the commissioners.”

“ (12) The commissioners may allow any person whose conduct is
 “ being investigated under this Act, and shall allow any person against
 “ whom any charge is made in the course of such investigation, to be
 “ represented by counsel.”

40 “ (13) No report shall be made against any person until reasonable
 “ notice shall have been given to him of the charge of misconduct alleged
 “ against him and he shall have been allowed full opportunity to be heard
 “ in person or by counsel.”

No. 5.
 The Inquiries
 Act,
 (amended by)
 2 Geo. V.,
 Cap. 28.

No. 6.

STATUTES OF ONTARIO, 1911, 1 GEO. V.

Chapter 119.

An Act respecting the City of Toronto.

[Assented to 24th March, 1911.]

* * * * *

16. The Municipal Electric Light, Heat and Power Works (including any purchased) shall be managed by a Board of Commissioners to be called the Toronto Electric Commissioners, which shall consist of three members. The Mayor of the City shall be *ex officio* a member of the Board. One member 10 shall be appointed by the Municipal Council of the City on the nomination of the Board of Control, and no appointment shall be made by such Council in the absence of such nomination, except on the affirmative vote of at least two-thirds of the members of the Council present and voting, and the third shall be appointed by the Hydro-Electric Power Commission of Ontario, and such members so appointed shall hold office for two years and until their successors are appointed.

17. The Board shall perform all the duties, and have all the powers, of Commissioners under The Municipal Light and Heat Act, the provisions of which shall apply, except that the Board shall have power to apply 20 so much of the moneys paid over to the Treasurer of the Municipality under the provisions of that Act, as well as the annual revenues, as the Board may deem necessary in improving or extending the works under its management.

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No. 7.

REVISED STATUTES OF ONTARIO, 1914.

Chapter 56.

An Act respecting the Supreme Court of Ontario and the administration of Justice in Ontario.

30

* * * * *

ADMINISTRATION OF JUSTICE.

16. In every civil cause or matter law and equity shall be administered according to the following rules :—

* * * * *

APPENDIX.

No. 6.

An Act
respecting
the City
of Toronto,
1 Geo. V.
(Ontario),
Cap. 119,
Secs. 16-17.

No. 7.
The Ontario
Judicature
Act,
R.S.O., 1914,
Cap. 56,
Secs. 16 (b),
32-33.

(b) No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right, whether any consequential relief is or could be claimed or not :

APPENDIX.
No. 7.
The Ontario
Judicature
Act,
R.S.O., 1914,
Cap. 56,
Secs. 16 (b),
32-33
—continued.

* * * * *

EFFECT OF JUDICIAL DECISIONS.

32. (1) The decision of a Divisional Court on a question of law or practice unless overruled or otherwise impugned by a higher Court shall be binding on all Divisional Courts and on all other courts and judges and shall not be departed from in subsequent cases without the concurrence of the judges who gave the decision.

(2) It shall not be competent for any judge of the High Court Division in any case before him to disregard or depart from a prior known decision of any other judge of co-ordinate authority on any question of law or practice without his concurrence.

(3) If a judge deems a decision previously given to be wrong and of sufficient importance to be considered in a higher court, he may refer the case before him to a Divisional Court.

(4) Where a case is so referred, it shall be set down for hearing, and notice of hearing shall be given in like manner as in the case of an appeal to a Divisional Court.

CONSTITUTIONAL QUESTIONS.

33. (1) Where in any action or other proceeding, the constitutional validity of any Act or enactment of the Parliament of Canada or of this Legislature is brought in question, the same shall not be adjudged to be invalid until after notice has been given to the Attorney-General for Canada, and the Attorney-General of Ontario.

(2) The notice shall state what Act or part of an Act is in question, and the day on which the question is to be argued, and shall give such other particulars as are necessary to show the constitutional point proposed to be argued.

(3) Subject to the Rules, the notice shall be served six days before the day named for the argument.

(4) The Attorney-General for Canada and the Attorney-General of Ontario shall be entitled, as of right, to be heard, either in person or by counsel, notwithstanding that the Crown is not a party to the action or proceeding.

* * * * *

REVISED STATUTES OF ONTARIO, 1914.

Chapter 204.

An Act respecting the construction and operation of Works for supplying Public Utilities by Municipal Corporations and Companies.

* * * * *

PART II.

MUNICIPAL PUBLIC UTILITY WORKS OTHER THAN WATERWORKS.

17. In this Part—

“ Public Utility ” shall mean artificial and natural gas, electrical power or energy, steam and hot water.

18. (1) The corporation of every urban municipality may manufacture, procure, produce and supply for its own use and the use of the inhabitants of the municipality any public utility for any purpose for which the same may be used ; and for such purposes may purchase, construct, improve, extend, maintain, and operate any works which may be deemed requisite, and may acquire any patent or other right for the manufacture or production of such public utility, and may also purchase, supply, sell or lease fittings, machines, apparatus, meters, or other things for any of such purposes.

20

* * * * *

24. A corporation possessing or intending to construct works under this Act may, under the authority of a bye-law of an adjoining local municipality, exercise the like powers within the adjoining municipality as it may exercise within its own municipality upon such terms and conditions as may be agreed upon.

* * * * *

PUBLIC UTILITY COMMISSION.

* * * * *

34. (2) A Commission established under *The Municipal Waterworks Act*, or *The Municipal Light and Heat Act*, or under a special Act for the construction or the control and management of works for the manufacture, production or supply of any public utility shall, for the purposes of this section, be deemed to be a Commission established under this Part and the provisions of this Part shall apply to it.

* * * * *

35. (1) Subject to Subsection 3, upon the election of the commissioners as hereinafter provided, all the powers, rights, authorities, and privileges which are by this Act conferred on the corporation shall, while such bye-law remains in force, be exercised by the commission and not by the council of the corporation.

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APPENDIX.
No. 8.
The Public
Utilities Act,
R.S.O., 1914,
Cap. 204.

36. (1) A commission established under this Part shall be a body corporate and shall consist of three or five members as may be provided by the bye-law, of whom the head of the council shall *ex officio* be one and the others shall be elected at the same time and place and in the same manner as the head of the council, and subject to Subsection 2 the elected members shall hold office for two years and until their successors are elected and the new commission is organised.

APPENDIX.
No. 8.
The Public
Utilities Act,
R.S.O., 1914,
Cap. 204
—continued.

* * * * *

41. (1) The commission shall, on or before the fifteenth day of January 10 in each year, or upon such other day as the council may direct, cause a return to be made to the council containing a statement of the affairs of each public utility work showing—

(a) the amount of the rents, issues, and profits, arising therefrom and the number of persons supplied with each of the public utilities during the previous calendar year;

(b) the extent and value of the property connected with each public utility work;

(c) the amount of all outstanding debentures and the interest thereon, due and unpaid, and the state of the sinking fund;

20 (d) the expenses of management, and all other expenses;

(e) the salaries of officers and servants;

(f) the cost of repairs, improvements and alterations;

(g) the price paid for any land acquired for the purpose of such public utility work and such a statement of revenue and expenditure as will at all times afford full and complete information of the state of its affairs.

(2) The commission shall also furnish such information as from time to time may be required by the council.

30 (3) The accounts of the commission shall be audited by the auditors of the corporation, and the commission and its officers shall furnish to the auditors such information and assistance as may be in their power to enable the audit to be made.

42. A book wherein shall be recorded all the proceedings of the commission shall be kept and shall be open to inspection by any person appointed for that purpose by the council.

43. The revenues, after deducting disbursements, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality, and shall be by him placed to the credit of the account of the public utility work, and if not required for the purpose of the work shall form part 40 of the general funds of the corporation.

* * * * *

REVISED STATUTES OF ONTARIO, 1914.

Chapter 145.

An Act respecting Councils of Conciliation and of Arbitration for settling Industrial Disputes.

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Trade Disputes Act*.

2. In this Act—

(a) “Employer” shall mean and include any person or body of 10 persons, incorporated or unincorporated, employing not less than ten workmen in the business in which the trade dispute has arisen;

(b) “Employees” shall mean and include a person or persons in the employment of an employer.

3. (1) A claim or dispute under this Act shall include any disagreement between an employer and his employees in respect of—

(a) the price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages, or to the hours or times of working;

(b) damage alleged to have been done to work, delay in finishing 20 the same, not finishing the same in a good and workmanlike manner or according to agreement;

(c) materials supplied to employees and alleged to be bad, or unfit, or unsuitable;

(d) the price to be paid for mining any mineral or substance mined, or obtained by mining, hewing, quarrying or other process; or the allowances, if any, to be made for bands, refuse, faults or other causes whereby the mining of the mineral substance is impeded;

(e) the performance or non-performance of any stipulation or matter alleged to have been in an agreement, whether in writing or not; 30

(f) insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind;

(g) ill-ventilated or dangerous workings or places in mines, or unwholesome or insanitary rooms or other places of accommodation in which work is being performed, or want of necessary conveniences in connection with such rooms or places;

(h) the dismissal or employment under agreement of employees; or

(i) the dismissal of employees for their connection with any trade or labour organisation. 40

(2) No claim or dispute shall be the subject of conciliation or arbitration in any case in which the employees affected by such claim or dispute are fewer in number than ten.

4. (1) The Lieutenant-Governor in Council may appoint a Registrar of Councils of Conciliation and of Arbitration for the settlement of industrial disputes.

(2) Such office shall be assigned to some person performing other duties in the public service, unless and until the duties are so onerous as to require a separate appointment.

(3) It shall be the duty of the Registrar to receive and register and, subject to the provisions of this Act, to deal with all applications by employers or employees for reference to a Council of Conciliation or to the
10 Council of Arbitration of any claim or dispute within the meaning of this Act; to convene such councils for the purpose of dealing with any claim or dispute, to keep a register in which shall be entered the particulars of all references and settlements of claims and disputes made to and by a Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties under this Act or the regulations made in pursuance thereof.

(4) The Registrar shall issue all summonses, Form 15, to witnesses to attend to give evidence, with or without the production of papers and
20 documents, and shall issue all notices and perform all other acts in connection with the sittings of each such Council in the prescribed manner.

(5) If any difference shall arise between any employer and his employees likely to result or resulting in a strike on the part of such employees, or a lockout on the part of the employer, it shall be the duty of the Registrar, when requested in writing to do so by five or more of the employees, or by the employer, or by the head of the municipality in which the industry is situated, to visit the place of such disturbance and diligently seek to mediate between the employer and employees.

(6) It shall be the duty of the Registrar to promote conditions favour-
30 able to a settlement by endeavouring to allay distrust, to remove causes of friction, to promote good feeling, to restore confidence, and to encourage the parties to come together and themselves effect a settlement, and also to promote agreements between employers and employees with a view to the submission of differences to conciliation or arbitration before resorting to a strike or lockout.

COUNCIL OF CONCILIATION.

5. (1) A Council of Conciliation for the purpose of any dispute or claim shall consist of four conciliators, two to be nominated by each of the parties to the dispute.

40 (2) The nomination shall be by writing lodged with the Registrar.

(3) Either party may lodge the nomination papers with the Registrar at any time after the dispute has arisen; and if the Registrar has not already received a nomination of two conciliators on behalf of the other party he shall give notice to such other party of the nomination which he has received.

(4) Any vacancy in a Council of Conciliation arising through the death, resignation, or otherwise of any member thereof shall be filled in the same

APPENDIX.

No. 9.
The Trade
Disputes Act,
R.S.O., 1914,
Cap. 145
—continued.

way as the appointment was first made, namely, on the nomination of the party whose conciliator has ceased to be a member of the Council.

PROCEDURE FOR CONCILIATION.

6. A claim or dispute within the meaning of this Act may be referred for settlement to a Council of Conciliation where—

(a) the parties to the claim or dispute jointly agree in the prescribed manner, Form 2, to refer such claim or dispute for settlement to a Council of Conciliation; or

(b) either party to the claim or dispute, in the prescribed manner, lodges an application, Form 3, with the Registrar requesting that the claim or dispute be referred for settlement to a Council of Conciliation.

7. The Registrar, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council; and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council given in the endeavour of the Council to effect a settlement of the claim or dispute.

8. Either party to the claim or dispute may, for the purposes of this Act, be represented by one or more persons, not exceeding three, authorised by such party as managers in that behalf; and such party shall be bound by the acts of such managers.

20

9. Where the party numbers fewer than twenty the managers must be authorised in writing, Form 4, signed by the members of the party to act for and on their behalf.

10. (1) Where the party numbers twenty or more the managers may be appointed or elected in such manner as the members of the party think proper.

(2) A copy of the resolution electing the managers, together with a declaration by the chairman or president of the meeting stating it to have been carried, shall be kept as a record of the election.

11. (1) The parties to the claim or dispute shall, if possible, agree to a joint written statement of their case; but if they do not so agree a statement in writing from each party shall be made.

(2) The statement or statements shall be forwarded to the Registrar before the meeting of the Council.

12. When the parties to a claim or dispute have named their conciliators the Registrar shall by notice in writing, Form 5, convene a meeting of the conciliators at a time and place mentioned in the notice, the same being selected with due regard to the general convenience of the conciliators and the parties.

13. (1) The Council shall transmit to the Registrar a report, Forms 6 and 7, setting forth the result of the reference.

(2) In case such report is to the effect that the Council has failed to bring about any settlement or adjustment of the claim or dispute the Registrar, on receipt of the report, shall transmit a certified copy to each party to the claim or dispute; whereupon either party may, by notice in writing, Forms 8 and 9, require the Registrar to refer the claim or dispute to the Council of Arbitration for settlement, Form 10.

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No. 9.
The Trade
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THE COUNCILS OF ARBITRATION.

14. (1) There shall be two Councils of Arbitration—

10 (a) A Council of Arbitration for the settlement by award in respect of claims and disputes between railway companies, including street railway companies, and wage earners employed in respect of railway construction or traffic on railways; and

(b) A Council of Arbitration in respect of other claims and disputes.

(2) Each Council shall consist of three members, one to be appointed by the Lieutenant-Governor on the recommendation of the employees, and one to be appointed by him on the recommendation of the employer.

20 (3) The third member of each Council shall be the President of the Council and shall be appointed in manner following, namely: The two members appointed shall within twenty-one days after their appointment submit, Form 1, to the Lieutenant-Governor the name of some impartial person to be appointed by him to the position of President.

(4) In case of the said two members failing so to do the Lieutenant-Governor may appoint as President an impartial person not personally connected with or interested in any trade or industry, or in the judgment of the Lieutenant-Governor likely, by reason of his former occupation, business vocation or other influence, to be biased in favour of or against employers or employees.

(5) The same person may be President of both Councils.

30 (6) As soon as practicable after a full Council has been appointed by the Lieutenant-Governor notice of the appointment and the names of the members of the Council shall be published by the Registrar in the *Ontario Gazette*.

(7) The Lieutenant-Governor may cancel the appointment of any member on the recommendation of the authority by which his appointment was recommended.

(8) The term of office of a member shall be two years; and at the end of every term of two years a fresh appointment of members shall be made in manner aforesaid.

40 (9) Every member after the expiry or other termination of his term of office shall be eligible for reappointment for a like term.

(10) If the President of a Council shall be declared a bankrupt or insolvent, or shall make a composition with his creditors, or shall make an assignment of his property or salary for the benefit of his creditors, or if any member of either Council shall be convicted of any criminal offence, such President or member respectively shall thereby vacate his office of member.

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 No. 9.
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(11) Any vacancy in a Council arising from death, resignation or other cause shall be filled by the Lieutenant-Governor for the term of office, or the residue of such term, as the case may be, in accordance with the respective methods prescribed by this Act.

(12) In case the President of a Council is unable to act as such from illness, absence from the Province, or other temporary cause the Lieutenant-Governor may appoint a person to be acting President of the Council in his place; and such acting President shall have all the powers and perform all the duties conferred by this Act upon the President.

(13) If any member of a Council, other than the President, is, from 10 illness or from any other disability howsoever arising, unable to perform the duties of his office in respect to any claim or dispute then pending the parties thereto may consent, in writing under their respective hands, to the appointment by the Lieutenant-Governor of a member named in such writing to act for and in place of the member during such disability; and if either of the parties refuse such consent the judge of the County or District Court of the County or district in which the matter is situate with respect to which the claim or dispute has arisen may, on notice to the parties of the application to him, make the nomination; and the Lieutenant-Governor may appoint the person so nominated, who shall thereupon be 20 deemed a member of such Council for all the purposes relating to such claim or dispute and to the hearing and determination thereof.

(14) Where a dispute has been referred to either Council of Arbitration the members of the Council of Conciliation may, with the consent in writing, Form 13, of both parties to the claim or dispute, sit as assessors upon the reference to the Council of Arbitration; but no such assessor shall take any part in the reference except as an assessor sitting to inform the Council of Arbitration when called upon to do so.

(15) The members of each Council of Arbitration shall be remunerated for their services in such manner and according to such rate of payment 30 as the Lieutenant-Governor in Council shall appoint, but subject to legislative provision being made therefor.

15. The following may be the method of ascertaining the recommendation of employer and employees as to the persons to be appointed on their recommendation respectively as members of the Council of Arbitration:

(a) For the person to be recommended by the employer every employer in Ontario shall be entitled to one vote; every organisation in Ontario, whether incorporated or unincorporated, representing the interests of employers, each member of which has at least ten persons in his employment, shall be entitled to one vote;

(b) Every Board of Trade in Ontario legally constituted shall be entitled to one vote for a representative of the employer in each Council;

(c) For the person to be recommended by employees as a member of the Council in matters not relating to railway companies, every trades and labour council, every district assembly of the Knights of Labour, every federated council of building trades, every lawfully incorporated trades union, every organisation of wage-earners of an industrial calling primarily constituted for, and actually and *bona fide*

operated for the regulation of the wages and hours of labour as between employers and employed, shall be entitled to one vote ; but this shall not be deemed to include co-operative associations or societies formed under Chapter 202 of the Revised Statutes of Ontario, 1897 ;

10 (d) For choosing the person to be recommended by employees of railway companies as a member of the Council in matters relating to railways, every organisation in Ontario, whether incorporated or unincorporated, exclusively representing the interest of wage-earners employed in respect of railway construction or traffic on railways shall be entitled to one vote ; but this shall not be deemed to include co-operative associations or societies ;

(e) The Registrar shall give notice in the *Ontario Gazette* calling on all organisations and persons entitled to vote for a member to be recommended to either Council, or claiming to be so entitled, to communicate with him on or before the 1st day of August, of every second year reckoned from 1910 ; and such notice shall be inserted for at least four weeks before that day in every such year ;

20 (f) The Registrar shall forthwith, after such first day of August, prepare a list of the persons and organisations appearing to be entitled to vote, for a person to be recommended for appointment to each of the said Councils respectively, and may refer any doubtful claim to the Minister of Public Works for his advice or direction ;

(g) Each list so to be prepared shall give the last known post office address of every person and organisation entitled to vote as employers and employees respectively for the said Councils respectively, and shall be published in the *Ontario Gazette*, and shall be open to inspection at any time by any person without fee, in the office of the Registrar during office hours ;

30 (h) Between the 1st and 30th days of September of every second year reckoned from 1910 the Registrar shall transmit by registered post to the address of each person and organisation entitled to vote a voting paper, Form 16 ;

40 (i) The voting paper of any person entitled to vote under this Act as an employer shall be signed by himself or some person duly authorised in writing in that behalf, and the voting paper of any organisation entitled to vote shall be signed by the president or vice-president of the organisation, or, in the absence of such president or vice-president, by any office bearer of the organisation other than the secretary thereof, and shall be countersigned by the secretary or acting secretary, or, in the absence of such secretary or acting secretary, by any two members not being office bearers ; and the voting papers of a Board of Trade shall be under the corporate seal of the Board ;

(j) The voting paper shall be forwarded in a stamped envelope, addressed to the Registrar of Councils of Conciliation and Arbitration, Toronto, and endorsed, " Voting paper under *The Trade Disputes Act* ; "

(k) Every voting paper shall be forwarded by mail or otherwise to the Registrar so as to be received by him on or before the 15th day of October of the year in which the voting is to be held, and any voting

paper received by the Registrar after the said date shall have no effect or validity ;

(l) The Registrar shall forthwith, after the said 15th day of October, count the recommendations as well by or on behalf of employees, as by or on behalf of employers for each Council, and shall forward the same to the Minister of Public Works, together with the Registrar's report thereon ; and the Minister of Public Works, upon being satisfied of the accuracy of such report, shall publish in the *Ontario Gazette* the result of such recommendations, and the names of the persons appointed by the Lieutenant-Governor upon such recommendations 10 to be members of the Councils of Arbitration ; and also the names of, and number of votes given for the five persons who have received the greater number of votes for each Council on behalf of employers and employees respectively ;

(m) In case either employers or employees, or both, fail to recommend any person to represent them on either or both the Councils, as provided for in this section, the Lieutenant-Governor in Council may appoint a person or persons to fill the vacancy or vacancies.

PROCEDURE FOR ARBITRATION.

16. (1) Any dispute or claim within the meaning of this Act may be 20 referred to the appropriate Council of Arbitration for its hearing and determination in any of the following cases :—

(a) On application, Form 9, to the Registrar by either party to a claim or dispute which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council ;

(b) On application, Form 8, to the Registrar by both parties to a claim or dispute, which has not been so referred to a Council of Conciliation.

Provided that if in either case the award of the Council of Arbitration is not complied with or carried out by the parties, or for any reason proves 30 abortive, the parties to the reference, or either of them, shall not thereby be precluded from referring the dispute to a Council of Conciliation or from making a second reference to the Council of Conciliation where a former reference has already been made to it.

(2) If in case of a claim or dispute, within the meaning of this Act, one party has lodged an application with the Registrar requesting that the dispute or claim be referred to a Council of Conciliation, and appointing two conciliators for the purpose, and notice of the application and of the appointment of conciliators has been duly given to the other party, and such other party has not within a reasonable period appointed conciliators, 40 and the party lodging the application has not proceeded to a strike or lock-out, as the case may be, the Council of Arbitration, if it thinks fit, may proceed as in case of an abortive reference to a Council of Conciliation, and such Council may report their decision as to the proper settlement of the dispute in question and also in case the Council thinks proper, a concise statement as to the origin of the dispute, and the causes inducing the same,

and what parties, if any, are in the opinion of the Council mainly responsible for the same.

(3) The mayor of any city or town, upon being notified that a strike or lockout is threatened or has actually occurred within the municipality, shall at once notify the Registrar thereof by writing, stating the name of the employer, the nature of the dispute, and the number of employees involved as far as his information will enable him so to do.

(4) It shall be the duty of each of the Councils of Arbitration, upon being notified, or on being otherwise made aware, that a strike or a lock-
10 out has occurred or is threatened, to place itself, as soon as practicable, in communication with the parties concerned and to endeavour by mediation to effect an amicable settlement, and if in the judgment of the Council it is deemed best to enquire into the cause or causes of the controversy it shall proceed as in the case of a reference.

17. In every case referred to a Council of Arbitration, or in which the Council has determined to act under the preceding section of this Act, the Council shall have power to require either or each party to the claim or dispute to name not more than three persons, who, upon their consent in writing, Form 14, shall for all purposes of the reference be taken to represent
20 such party.

18. (1) The Council shall sit and conduct its proceedings as in open Court, and in making its decision shall be governed by the principles of equity and good conscience.

(2) The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of the Supreme Court, except the power of committing for contempt.

19. Any two members of the Council of Arbitration shall constitute a quorum for the transaction of business, and may hold meetings at any time and at any place within Ontario.

30 20. The Council of Arbitration may order that an examination or investigation, shall be held before any one member of the Council, but such member shall report upon such examination or investigation to the Council, and the decision of such member shall not be considered binding until approved by the Council or a majority thereof.

21. (1) The report or award, Form 11, of the Council of Arbitration shall be made within one month after the Council has completed its sittings for the hearing of the reference, and shall be by and under the hands of a majority of the members of the Council.

(2) At the request of either party, and if the Council approves, a copy
40 of the report or award shall be published by the Registrar in *The Ontario Gazette*.

(3) The report or award, or a copy certified under the hand of the President of the Council, shall be deposited in the office of the Registrar and shall be open to inspection without charge during office hours.

APPENDIX.

No. 9.
The Trade
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APPENDIX.
 No. 9.
 The Trade
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 —continued.

22. (1) Either party to a reference to either Council of Arbitration, at any time before award made, may by writing under the hands of such party, Form 12, agree to be bound by the award of the Council upon the reference in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*.

(2) Every such agreement made by one party shall be communicated by the Registrar to the other party, and if such other party also agrees in like manner to be bound then the award may, on the application of either party, be enforced in the same manner as an award on an ordinary submission 10 in writing to arbitration may be enforced under the said Act.

MISCELLANEOUS PROVISIONS.

23. The Councils of Conciliation and Arbitration shall have power :—

(a) to visit the locality where the trade dispute has arisen and to hear all persons interested who may come before them ;

(b) to summon, Form 15, any person to attend as a witness before the Council, and in the case of any person so summoned refusing to attend after payment or tender of his proper fees application may be made in a summary way to a Justice of the Peace having jurisdiction in the city, town or county wherein the council may be sitting for an 20 order compelling such attendance ; and such Justice of the Peace may make such order as might be made in any case wherein such Justice has power to compel appearance before him in pursuance of *The Ontario Summary Convictions Act*, and

(c) to administer an oath to any person attending as a witness before the Council and to examine any such person on oath or affirmation.

24. No party to any proceeding either before a Council of Conciliation or a Council of Arbitration shall be represented by counsel or solicitor or by any paid agent other than one or more of the persons between whom the claim or dispute has arisen, 30

25. No fees shall be paid to the Registrar by any party in respect of any proceeding under this Act.

26. Every member of a Council of Conciliation, while engaged in adjustment of any dispute, shall be remunerated for his services as follows :—

Preliminary meetings	..	..	..	..	..	\$3
Whole-day sittings	..	..	..	..	..	\$4
Half-day sittings	..	..	..	..	..	\$2

out of any funds which may be appropriated by this Legislature for that purpose.

27. Witnesses shall be entitled to the same fees as in a Division Court. 40

28. (1) The Lieutenant-Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act, and all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Ontario Gazette*.

(2) Such regulations shall be laid before the Assembly within fourteen days after being published in the *Ontario Gazette* if the Legislature is in session, and if it is not in session then within the first fifteen days of the ensuing session.

29. No proceeding under this Act shall be deemed invalid by reason of any defect of form, or any technical irregularity.

FORMS (not printed).

APPENDIX.
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The Trade
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—continued.

In the Privy Council.

No. 99 of 1924.

*On Appeal from the Appellate Division of the
Supreme Court of Ontario.*

BETWEEN

TORONTO ELECTRIC COMMISSIONERS
(Plaintiffs) Appellants,

AND

COLIN G. SNIDER, J. G. O'DONOGHUE,
and F. H. McGUIGAN - *(Defendants) Respondents,*

AND

THE ATTORNEY-GENERAL OF
CANADA and THE ATTORNEY-
GENERAL OF ONTARIO - - - *Intervenants.*

JOINT APPENDIX OF
STATUTES.

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