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UNION OF SOUTH AFRICA.

REPORT

OF THE

SELECT COMMITTEE

ON THE

**INDUSTRIAL CONCILIATION
BILL.**

Printed by Order of the House of Assembly,

MAY, 1923.

CAPE TOWN :

CAPE TIMES LIMITED, GOVERNMENT PRINTERS,
1923.

[S.O. 5-13]—INDUSTRIAL CONCILIATION BILL.

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ORDERS OF THE HOUSE.

7th February, 1923.

ORDERED: That the *Industrial Conciliation Bill* be referred to a Select Committee for consideration and report; the Committee to have power to take evidence and call for papers.

8th February, 1923.

ORDERED: That the Minister of Mines and Industries, Messrs. Creswell, J. Henderson, Dr. Visser, Messrs van der Merwe, McAlister, Sampson, Werth and van Aardt be members of the Committee.

9th February, 1923.

ORDERED: That Mr. Creswell be discharged from service on the Committee and that Mr. Strachan be appointed in his stead.

REPORT

OF THE

SELECT COMMITTEE, appointed by Orders of the House of Assembly, dated the 7th and 8th February, 1923, to consider and report upon the *Industrial Conciliation Bill*; the Committee to have power to take evidence and call for papers and to consist of the MINISTER OF MINES AND INDUSTRIES, Mr. J. HENDERSON, Dr. VISSER, Messrs. VAN DER MERWE, McALISTER, SAMPSON, WERTH, VAN AARDT and STRACHAN.

Your Committee, having considered the *Industrial Conciliation Bill* referred to it, and having taken evidence thereon (which it submits herewith), begs to report the same with certain amendments, which it recommends to the consideration of the House.

Your Committee has further specially to report that it has amended the Title by inserting, after "the" in the first line, "prevention and"; by omitting "and" in the third line; in the same line after "registration" inserting "and regulation", and in the last line, after "other" inserting "incidental".

F. S. MALAN,
Chairman.

Committee Rooms,
House of Assembly,
18th May, 1923.

PROCEEDINGS OF COMMITTEE.

PROCEEDINGS OF THE SELECT COMMITTEE, appointed by Orders of the House of Assembly, dated the 7th and 8th February, 1923, on the *Industrial Conciliation Bill*; the Committee to have power to take evidence and call for papers and to consist of the MINISTER OF MINES AND INDUSTRIES, Messrs. J. HENDERSON, Dr. VISSER, Messrs. VAN DER MERWE, McALISTER, SAMPSON, WERTH, VAN AARDT and STRACHAN.

Monday, 12th February, 1923.

PRESENT :

The Minister of Mines and Industries.	Mr. McAlister.
Mr. J. Henderson.	Mr. Sampson.
Dr. Visser.	Mr. Werth.
Mr. van der Merwe.	Mr. van Aardt.
	Mr. Strachan.

Clerk read Orders of the House, dated the 7th and 8th February, 1923, appointing the Committee, and Order, dated the 9th February, discharging Mr. Creswell from service on the Committee and appointing Mr. Strachan in his stead.

On the motion of Dr. Visser,

Resolved : That the Minister of Mines and Industries be Chairman.

Clerk laid copies of the Bill upon the Table. [A.B. 1—'23.]

The Committee deliberated and adjourned until Friday, at 10.30 a.m.

Friday, 16th February, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).	
Mr. J. Henderson.	Mr. Sampson.
Dr. Visser.	Mr. Werth.
Mr. van der Merwe.	Mr. van Aardt.
Mr. McAlister.	Mr. Strachan.

The Secretary for Mines and Industries was in attendance.

The Chairman laid upon the Table :

(1) Letter, dated 10th instant, from the Secretary of the Durban Municipal Employees Society, enclosing :

(a) copy of the constitution of the Durban Municipal Joint Advisory Board, and

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- (b) copy of the constitution of the Durban Municipal Employees' Society.
- (2) Memorandum on the Bill from the Secretary of the Associated Trade Unions, Johannesburg.
- (3) Letter, dated the 8th instant, from the Clerk of the House, forwarding copy of the Bill with the Parliamentary Draftsman's comments thereon.

The Committee deliberated and adjourned until Monday, at 10.30 a.m.

Monday, 19th February, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Mr. Sampson.

Mr. McAlister.

Mr. Strachan.

The Chairman laid upon the Table a copy of a letter dated the 3rd instant, addressed to the Prime Minister by the Acting Secretary of the South African Society of Bank Officials, Johannesburg, on the subject of the Bill.

The Committee deliberated and adjourned until Friday, at 10 a.m.

Friday, 23rd February, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Mr. van Aardt.

Mr. McAlister.

Mr. Strachan.

Mr. Sampson.

The Secretary for Mines and Industries was in attendance.

The Chairman laid upon the Table the following letters forwarding memoranda on the Bill :

- (1) Dated 20th instant, from the General Secretary of the Postal and Telegraph Association.
- (2) Dated 16th instant, from the Secretary of the South African Society of Bank Officials.
- (3) Dated 22nd instant, from the Secretary for Mines and Industries, forwarding memorandum from the South African Association of Municipal Employees.

Mr. McAlister moved : That, in terms of Standing Order No. 233, the evidence taken before the Committee be recorded and transcribed in verbatim form.

Upon which the Committee divided :

AYES—3.

NOES—3.

Mr. McAlister.

The Chairman.

Mr. Sampson.

Mr. J. Henderson.

Mr. Strachan.

Mr. van Aardt.

The numbers being equal, the Chairman gave his casting vote with the "Noes" and the motion was accordingly negatived.

On the motion of the Chairman.

Resolved: That, in terms of Standing Order No. 233, the evidence given before the Committee be recorded and transcribed in narrative form.

Messrs. James Wallace, George Brown, Donald Pringle, George Taylor Jackson, and Edward Cresswell, representing the Associated Trades Unions, were examined.

The Committee deliberated and adjourned until Monday at 10 a.m.

Monday, 26th February, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.
Mr. McAlister.
Mr. Sampson.

Mr. van Aardt.
Mr. Strachan.

The Secretary for Mines and Industries was in attendance.

Messrs. James Wallace, George Brown, Donald Pringle, George Taylor Jackson, and Edward Cresswell, representing the Associated Trades Unions, were further examined.

The Committee deliberated and adjourned until Friday, at 10.30 a.m.

Friday, 2nd March, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.
Mr. McAlister.
Mr. Sampson.

Mr. Werth.
Mr. van Aardt.
Mr. Strachan.

The Secretary for Mines and Industries was in attendance.

The Chairman laid upon the Table letter from the Secretary for Mines and Industries, dated 26th ultimo, forwarding memorandum on the Bill submitted by the Cape Province Federation of Labour Unions.

Messrs. Robert Stewart, Lawrence Murphy, Arthur Richens, and Aaron Zalman Berman, representing the Cape Province Federation of Labour Unions, were examined.

The Committee deliberated and adjourned until Monday, at 10.30 a.m.

Monday, 5th March, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.		Mr. Sampson.
Dr. Visser.		Mr. Werth.
Mr. van der Merwe.		Mr. van Aardt.
Mr. McAlister.		Mr. Strachan.

The Secretary for Mines and Industries was in attendance.

Messrs. Robert Stewart, Lawrence Murphy and Arthur Richens, representing the Cape Province Federation of Labour Unions, were further examined.

The Committee deliberated and adjourned until Friday, at 10.30 a.m.

Friday, 9th March, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.		Mr. Werth.
Dr. Visser.		Mr. van Aardt.
Mr. McAlister.		Mr. Strachan.
Mr. Sampson.		

The Secretary for Mines and Industries was in attendance.

The Chairman laid upon the Table a letter, dated 8th instant, from the South African Federated Chamber of Industries, Cape Town, forwarding a memorandum on the Bill.

Messrs. Martin James Adams, Chairman of the Joint Board of Employers and Employees, Cape Federation of Trades, Ernest Joseph Nason, President of the Building and Allied Trades, Cape Peninsula, and Andrew Bernard Reid, President of the National Federation of Building Trade Employers in the Union of South Africa, were examined.

The Committee deliberated and adjourned until Monday, at 10.30 a.m.

Monday, 12th March, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Dr. Visser.		Mr. Werth.
Mr. van der Merwe.		Mr. van Aardt.
Mr. McAlister.		Mr. Strachan.
Mr. Sampson.		

The Secretary for Mines and Industries was in attendance.

The Chairman laid upon the Table a letter, dated 9th instant, from the Hon. Secretary of the Associated Trade Unions of South Africa, addressed to Mr. Sampson, M.L.A., containing particulars of the membership of the unions associated with that body.

Messrs. William Robert Jackson, Archibald Crawford and Henry Schneider, President, Secretary and Treasurer, respectively, of the South African Industrial Federation, together with Mr. Michael Murray, Secretary of the South African Colliery Workers' Union, were examined, and Mr. W. R. Jackson put in a memorandum on the Bill.

During the examination of the witnesses the Chairman left the Chair.

On the motion of Mr. McAlister,

Resolved: That Mr. van der Merwe take the Chair.

The Committee deliberated and adjourned until Wednesday, at 10.30 a.m.

Wednesday, 14th March, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Dr. Visser.

Mr. van der Merwe.

Mr. McAlister.

Mr. Sampson.

Mr. van Aardt.

The Secretary for Mines and Industries was in attendance.

The Chairman laid upon the Table a letter, dated 13th instant, from Mr. F. H. P. Creswell, M.L.A., submitting copy of proceedings and other documents in connection with the hearing of a dispute between certain employees of the Municipality of Johannesburg and the Municipality of Johannesburg, by a Board of Conciliation and Investigation appointed under section *ten* of Act No. 20 of 1909.

Mr. Michael Murray, Secretary of the South African Colliery Workers' Union, was further examined.

The Committee deliberated and adjourned until Monday, at 10.30 a.m.

Monday, 19th March, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Dr. Visser.

Mr. McAlister.

Mr. Sampson.

Mr. van Aardt.

Mr. Strachan.

The Secretary for Mines and Industries was in attendance.

Mr. Kenneth Bingham Quinan, Chairman of the Board of Management of the Cape Explosives Works, Ltd., Somerset West, was examined.

During the examination of the witness, the Chairman left the room.

On the motion of Mr. McAlister,

Resolved: That Mr. J. Henderson take the Chair.

The Committee deliberated and adjourned until Friday, at 10.30 a.m.

Friday, 24th March, 1923.

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Mr. Sampson.

Dr. Visser.

Mr. van Aardt.

Mr. McAlister.

Mr. Strachan.

The Secretary for Mines and Industries was in attendance.

The Committee deliberated and adjourned until Wednesday, 11th April, at 10.30 a.m.

Wednesday, 11th April, 1923 (at 10.30 a.m.)

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Mr. Sampson.

Dr. Visser.

Mr. Werth.

Mr. van der Merwe.

Mr. van Aardt.

Mr. McAlister.

The Secretary for Mines and Industries was in attendance.

The Chairman laid upon the Table :

- (1) A letter, dated 27th March, from the Secretary of the Associated Scientific and Technical Societies of South Africa, in regard to "Essential Services".
- (2) A letter, dated 22nd March, from the Hon. Secretary of the Associated Trade Unions of South Africa, Johannesburg, furnishing the names of the Unions subscribing to the memorandum of the Associated Trade Unions.

The Committee deliberated and adjourned at 11.15 a.m., until Monday, the 23rd instant, at 10.30 a.m.

Thursday, 3rd May, 1923 (at 10.30 a.m.)

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Mr. Sampson.

Dr. Visser.

Mr. Werth.

Mr. McAlister.

Mr. Strachan.

The Secretary for Mines and Industries and the Government Mining Engineer were in attendance.

The Chairman laid upon the Table :

- (1) A copy of a letter, dated the 11th ultimo, from the Chairman of the National Industrial Council of the Printing and Newspaper industry of South Africa, embodying the views of the Council in regard to the Bill.
- (2) A letter, dated the 16th ultimo, from the Secretary of the Cape Peninsula Building Trades Joint Board, enclosing petition from the residents of the Union, praying that the *Wages Board Bill* may be re-introduced.
- (3) A telegram, dated the 27th ultimo, from Mr. Hartshorne to Mr. Henderson, M.L.A., conveying resolution adopted by the artizan staff of the Government Printing Works to the effect that they be included within the scope of the *Public Service and Pensions Bill* and not under the provisions of the *Industrial Conciliation Bill*.

The Committee proceeded to the consideration of the various Clauses of the Bill.

On Clause One,

On the motion of the Chairman,

Resolved : In line 7, before " trade ", to insert " industry ", and in line 8, after " undertaking ", to insert " industry ".

Mr. Sampson moved : In lines 10 and 11, to omit " to any employment in agriculture or in any farming industry nor ".

Upon which the Committee divided :

AYES—2.

Mr. J. Henderson.

Mr. Sampson.

NOES—5.

The Chairman.

Dr. Visser,

Mr. McAlister.

Mr. Werth.

Mr. Strachan.

The motion accordingly negatived.

On the motion of the Chairman,

Resolved : To add at the end " or any provincial administration ", and that the following be a proviso to the Clause :

Provided that if any number of persons employed in any department of the Government in any undertaking, industry, trade or occupation is, with the approval of the Minister of that department, a party to, or is represented upon, any industrial council or like body existing for the consideration and regulation of matters of mutual interest to employers and employees in that undertaking, industry, trade or occupation or the prevention or settlement of disputes between them, such persons and any other persons so employed in that department may, with the approval of the said Minister, be a party to, or be represented upon, any industrial council established under section two of this Act.

Clause, as amended, put and agreed to.

On Clause Two,

On the motion of the Chairman,

Resolved : In line 15, to omit the heading " Conciliation " and to substitute " Prevention and Settlement of industrial disputes " ;
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that sub-sections (1) and (2) be omitted, and that the following be new Clauses to follow sub-section (2):—

2. (1) Any employer or association of employers may agree with a registered trade union or group of registered trade unions for the establishment of an industrial council for the consideration and regulation, in accordance with the provisions of this Act, of matters of mutual interest to them and the prevention and settlement of disputes between them. Upon compliance with the conditions prescribed in this section, any industrial council the establishment of which is so agreed upon shall be registered under this Act.

(2) An application for the registration of an industrial council shall be made in writing to the Minister by the parties to such agreement, who shall furnish with the application information as to—

- (a) the authority under which the application is made ;
 - (b) the numbers and occupations of the persons authorizing the application ;
 - (c) the character of the undertaking, industry, trade or occupation in respect of which it is desired that the industrial council shall be registered ;
 - (d) the area for which it is desired that the industrial council shall be registered ; and
 - (e) the situation of the head office of the industrial council ;
- together with a copy of the constitution and rules of the industrial council and of any agreements between the parties.

The Minister may require the applicant to furnish such further information as he may deem to be necessary.

(3) If the Minister is satisfied that the agreement for the establishment of the industrial council is in accordance with the terms of sub-section (1) of this section ; that the constitution and rules are satisfactory ; that all conditions prescribed by this Act have been complied with ; and that the industrial council would be sufficiently representative within any area of the particular undertaking, industry, trade or occupation, he shall register the constitution and rules for the particular area mentioned in the certificate. No alteration of the constitution and rules so registered shall have effect until a copy of the proposed alteration has been submitted to and approved by the Minister.

(4) Whenever the Minister is satisfied that an agreement has been reached between a registered industrial council and any other person ; registered trade union or organization of employers for the extension of the constitution of such council to any other undertaking, industry, trade or occupation or to any further area and that such extension would be in accordance with the provisions of this Act, he may register such extension.

(5) Whenever the Minister is satisfied in respect of a registered industrial council—

- (a) that it has ceased to exist or to perform its functions under this Act ; or
- (b) that a resolution for the removal of its name from the register has been passed by a majority of its members at a meeting held in accordance with its rules ; or
- (c) that a majority of the representatives of the employers or a majority of the representatives of the employees upon the council have resigned therefrom ;

the Minister may cause the name of the council to be removed from the register.

(3). (1) The rules of a registered industrial council shall provide for—

- (a) the appointment of an equal number of representatives of employers and employees and of alternates, and the method of such appointment ;
- (b) the election of a chairman and, whenever the occasion arises, of a person to preside over meetings in his absence, and the method of such election ;
- (c) the appointment of other necessary officers ;
- (d) the times when, and circumstances in which, officers shall vacate their offices and members their seats ;
- (e) the times and places for the holding of meetings ;
- (f) the keeping of minutes of meetings ;
- (g) the method of procedure for dealing with disputes coming under the consideration of the Council ; and
- (h) all other matters necessary to be governed by rule.

(2) Upon the settlement of any dispute or other matter by a registered industrial council, a memorandum of the terms of settlement shall be drawn up and signed by the parties or their representatives, and a copy of the memorandum shall forthwith be transmitted to the Minister.

4. (1) If in any area no industrial council exists under section two of this Act in respect of a particular undertaking, industry, trade or occupation, any employer or organization of employers, or trade union or organization of employees concerned in that area in that undertaking, industry, trade or occupation may apply to the Minister for the appointment of a conciliation board for the consideration and determination of any dispute in that area between any employer and any of his employees in that undertaking, industry, trade or occupation, and upon the receipt of such application the Minister may take immediate steps for the appointment of such a board.

(2) A conciliation board shall consist of such number of persons, not being less than six, as the Minister may determine, and for each member there may be an alternate member. Half of such members with their alternates, if any, shall be employers, and half shall be employees nominated by any trade union or organization of the employees concerned. Where, in the opinion of the Minister, there is no organization or trade union sufficiently representative of the employers

or the employees respectively, he may, if he deem fit, cause the members of the conciliation board to be nominated directly by the employers or employees themselves or partly by any organization or trade union and partly by the employers or employees. Where such method of nomination is not adopted, the Minister may himself directly appoint the members of the conciliation board.

On sub-section (3),

On the motion of the Chairman,

Resolved: In line 30, to omit "inspector" and to substitute "Minister" and that this sub-section be a sub-section (3) to new Clause 4.

On the motion of Mr. Sampson,

Resolved: That this Clause stand over for further consideration.

The Committee deliberated and adjourned at 12.10 p.m. until Monday, at 10.30 a.m.

Monday, 7th May, 1923 (at 10.30 a.m.).

PRESENT:

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Dr. Visser.

Mr. van der Merwe.

Mr. McAlister.

Mr. Sampson.

Mr. Werth.

Mr. van Aardt.

Mr. Strachan.

The Secretary for Mines and Industries and the Government Mining Engineer were in attendance.

The Committee resumed the consideration of the various Clauses of the Bill.

On Clause Two, standing over,

On the motion of the Chairman,

Resolved: That the following be new Clauses to follow sub-section (3):—

5. (1) A conciliation board shall appoint a chairman from amongst its members and when the chairman is absent a vice-chairman. In the absence for any cause of any members of the board, the alternate of that member may sit and vote as a member.

No act or proceeding of a conciliation board shall be invalid by reason only that there was a defect in the appointment of any member or that any vacancy existed in the membership.

(2) A majority of the total number of members shall be a quorum at any meeting. Meetings shall be held at such times and places as the board may from time to time determine. Minutes of the proceedings of every meeting shall be kept and shall be submitted to the next meeting and confirmed after necessary correction in such a manner as may be determined by the board.

6. (1) If both parties to any dispute which is under the consideration of any industrial council or conciliation board established under this Act apply to the Minister for the appointment of a mediator in respect of such dispute, or if the Minister is at any time satisfied that the settlement of any matter by any industrial council or conciliation board can be assisted thereby, he shall appoint a person to be mediator in respect of such dispute.

(2) A mediator so appointed may attend the meetings of the council or board at which such dispute is considered, and may act as chairman thereof. He shall confer with the members of the council or board, conduct such enquiries and investigations as may appear to him to be necessary, endeavour to bring about a settlement of the dispute by the parties thereto, and make a report to the Minister as to the results of his mediation.

7. An industrial council or conciliation board may agree to abide by the decision of one or more arbitrators for the determination of such dispute. Such council or board shall thereupon make the appointment or request the Minister to do so, and upon receipt of any such request the Minister shall make the appointment.

On sub-section (4);

On the motion of the Chairman,

Resolved: In line 35, to omit "Every" and to substitute "In the performance of any duty under this Act an industrial council or"; in the same line, after "board" to insert "or arbitrator"; in the same line, to omit "for its purposes"; in line 36, to alter "jurisdictions" into the singular; in line 40, after "any" to insert "industrial council or"; to add at the end "or before an arbitrator"; that the following be a proviso to the sub-section:

Provided that no offence shall be deemed to have been committed by any member of any such council or board, or by any such arbitrator, who *bona fide* and for good reasons communicates to any party to a dispute under consideration any such information as is referred to in section five of the said Act.

and that this sub-section be Clause Eight.

The Committee deliberated and adjourned at 12 noon, until Friday, at 10.30 a.m.

Friday, 11th May, 1923 (10.30 a.m.).

PRESENT:

THE MINISTER OF MINES AND INDUSTRIES (Chairman),

Mr. McAlister.

Mr. Strachan.

Mr. Sampson.

The Secretary for Mines and Industries and the Government Mining Engineer were in attendance.

In the absence of a quorum, the Clerk of the House, in consultation with the Chairman, and in accordance with Standing Order No. 229 (1), fixed the next meeting for Monday, at 10.30 a.m.

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Monday, 14th May, 1923 (at 10.30 a.m.).

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. J. Henderson.

Dr. Visser.

Mr. McAlister.

Mr. Sampson.

Mr. van Aardt.

The Secretary for Mines and Industries was in attendance.

The Committee resumed the consideration of the various Clauses of the Bill.

On the motion of the Chairman,

Resolved : That the following be a new Clause to follow Clause Two :

10. (1) It shall be unlawful in any undertaking, industry, trade or occupation to which this Act applies—

(a) for any employer to make any alteration in the terms of employment of any employee ; or

(b) for any employee to demand an alteration of the terms of his employment

unless one calendar month's notice of such alteration or of such demand has been given by the employer to the employee or by the employee to the employer, as the case may be : Provided that a shorter period may be agreed upon by both parties.

(2) If, within fourteen days of the receipt by an employer or employee of any such notice, the person receiving it refers the subject-matter of the notice to an industrial council having jurisdiction, or where there is no such council applies to the Minister for the appointment of a conciliation board and the Minister appoints a conciliation board upon such application in terms of section *four* of this Act, the alteration of terms of employment of which notice was given shall not have effect until the matter has been determined, or has been reported on by the industrial council or conciliation board, as the case may be.

On Clause Three,

On the motion of the Chairman,

Resolved : In sub-section (1), line 41, after " employer " to insert " organization of employers," ; in line 43, to omit " dispute " and substitute " matter " ; in line 44, after " by " to insert " (a) an industrial council ; or (b) " ; in lines 44 and 45 to omit " established or appointed under section *two* of this Act " and to substitute " or (c) whenever the matter has in terms of this Act been submitted to arbitration until the award is given " ; in line 46, to omit " in the Schedule to this Act or " ; in line 47, to omit " substituted therefor " and to substitute " or in the award of the arbitrator " ; and that the following be a new sub-section to follow sub-section (2) :—

(3) Nothing in this Act contained shall render lawful any lock-out or strike of employees engaged in any such service

as is referred to in sub-section (1) of section *eleven* of this Act or be deemed to affect the provisions of section *twelve* of the Riotous Assemblies and Criminal Law Amendment Act, 1912.

Clause, as amended, put and agreed to.

On Clause Four,

On the motion of the Chairman,

Resolved: In sub-section (1), line 3, after "any" to insert "industrial council or"; in line 4, to omit "or, if there be no such decision" and substitute "and"; in line 5, after "report", to omit all the words down to and including "therefor" in line 7, and to substitute "or award of any mediator or arbitrator appointed thereunder"; in line 8, to omit "inspector" and to substitute "council, board, mediator or arbitrator, and in lines 9 and 10, to omit "and to such newspapers as the inspector" and to substitute "who shall make such publication thereof as he".

Clause, as amended, put and agreed to.

On Clause Five,

On the motion of the Chairman,

Resolved: That this Clause be omitted.

On Clause Six,

On the motion of the Chairman,

Resolved: In sub-section (1), paragraph (a), line 24, after "decision" to insert "or report", to omit "a", before "conciliation" to insert "an industrial council" and after "board", to insert ", mediator or arbitrator"; in line 25, to omit "section two of"; in the same line, after "given", to omit all the words down to the end of the paragraph; in paragraph (b), line 30, after "union", to insert "or organization of employees"; in line 31, to omit "provide" and substitute "provided"; in line 33, after "union" to insert "organisation"; in line 35, after "employees" to insert "affected by the matter in dispute"; in sub-section (2), line 40, after "employee" to insert "affected by the matter in dispute"; in line 43, after "union" to insert "or organization"; in sub-section (3), line 46, to omit "concerned" and to substitute "affected by the matter in dispute"; in sub-section (4), line 50, to omit "inspector" and to substitute "Minister or person delegated by him"; in lines 51 and 52, to omit "and the inspector shall communicate the same to the Minister and to such newspapers" and to substitute "and the Minister shall make such publication thereof"; and to add at the end of the sub-section "The person charged with the duty of taking the ballot shall securely keep the ballot papers for a period of thirty days after the ballot and during that period he shall permit inspection of them by the Minister or his authorized representative and by any employer or employee affected by the matter in dispute"; in sub-section (5), line 55, after "concerned" to insert "affected by the matter in dispute", and in sub-section (6), line 63, after "union" to insert "or organization".

Clause, as amended, put and agreed to.

The Committee deliberated and adjourned at 12 noon, until Friday, at 10 a.m.

[S.C. 5-23.]

Friday, 18th May, 1923 (at 10 a.m.).

PRESENT :

THE MINISTER OF MINES AND INDUSTRIES (Chairman).

Mr. van der Merwe.
Mr. McAlister.
Mr. Sampson.

Mr. van Aardt.
Mr. Strachan.

The Secretary for Mines and Industries was in attendance.
The Committee resumed the consideration of the various Clauses of the Bill.

On the motion of the Chairman,

Resolved : That the following be a new Clause to follow Clause Six :

15. (1) Whenever the decision or report of an industrial council, conciliation board, mediator or arbitrator under this Act has been given, it shall be unlawful for any employer affected by the matter in dispute to declare any lock-out of employees because of any matter which was a subject of the dispute or to alter any term of employment which was a subject of the dispute until a ballot shall have been taken of all employers affected by the dispute within the area in which it has taken place to ascertain whether such employers are in favour of a lock-out or alteration as the case may be.

(2) All and several the provisions of sub-sections (2), (3), (4), (5), (6) and (7) of section *fourteen* of this Act shall *mutatis mutandis* apply in reference to such ballot, and the Minister may prescribe such rules as on each occasion he may deem necessary for the taking of the ballot and any matter connected therewith.

On the motion of the Chairman,

Resolved : In Chapter IV., in the heading above Clause Seven, after "Unions" to add "and Employers' Organisations".

On Clause Seven,

On the motion of the Chairman,

Resolved : In sub-section (2), line 1, after "union" to insert "or employers' organisation"; in line 4, after "union" to insert "or employers' organisation"; in line 5 after "of" where it occurs for the second time to omit "the" and to substitute "its"; in the same line after "formation" to omit "of the union"; in line 6 after "registration" to omit "of the union"; to add at the end of paragraph (a) "or employers' organisation and the area in which it is or is proposed to be operative"; in paragraph (b), line 9, after "designations" to omit "and" and after "names" to insert "and addresses"; at the end of paragraph (d) to add "and"; and that the following be a new paragraph to follow paragraph (d)—

(e) any other information desired by the Registrar.

To omit sub-section (3), and all the words in sub-section (4)

down to "with" in line 23, and to substitute the following in lieu thereof:—

(3) If the Registrar is satisfied in respect of any such application—

- (a) that the requirements of this section have been complied with;
- (b) that the rules submitted are in accordance with law; and
- (c) that in the area in respect of which the union or organisation is or is proposed to be operative, there exists no trade union or organisation of employers already registered under this Act which is sufficiently representative of the interests concerned;

In line 24, sub-section (4), after "union" to insert "or employers' organisation", and in line 29 after "union" to insert "or employers' organisation"; at the end of sub-section (5) to add the following:—

Every change of officers or members of its council or executive committee made by a trade union or employers' organisation shall, within thirty days, be notified in writing to the Registrar.

In sub-section (6), line 34, after "union" to insert "or employers' organisation"; in sub-section (7), line 36, after "union" to insert "or employers' organisation"; in line 39, after "union" to insert "or employers' organisation"; in line 41, after "union", on each occasion where it occurs, to insert "or employers' organisation", and at the end of the sub-section to add the following—

but without prejudice to any right or obligation existing at the date of such removal.

Clause, as amended, put and agreed to.

On Clause Eight,

On the motion of the Chairman: In sub-section (1), line 43, and in sub-section (2), line 55, after "union", on each occasion where it occurs, to insert "or employers' organisation".

Clause, as amended, put and agreed to.

On Clause Nine,

On the motion of the Chairman,

Resolved: In lines 57, 59 and 60 after "union" to insert "or employers' organisation".

Clause, as amended, put and agreed to.

On Clause Ten,

On the motion of Mr. McAlister,

Resolved: In line 63, after "Crown" to insert "or of any Provincial Administration".

Clause, as amended, put and agreed to.

On the motion of Mr. Sampson.

Resolved: That the following be new Clauses to follow Clause Ten:—

20. (1) Where there is within the Union more than one branch of a trade union, or where the head office of a trade [S.C. 5-23.]

union is not situated within the Union, an application forwarded by the governing body of such trade union within the Union shall be deemed to be an application from a trade union in terms of section *sixteen* of this Act :

Provided that in addition to the particulars required under that section there shall be forwarded to the Registrar with the application a list of such branches together with the designations, names and official addresses of branch officials, and copies of the branch bye-laws and rules in force.

(2) If the head office of any union making application under this section is not situated within the Union and the rules of such union do not comply in all respects with the requirements of section *sixteen* the union making application within the Union may for such period as may be fixed by the Minister be registered provisionally pending compliance with the provisions of this section.

21. Whenever under the constitution or rules of a registered trade union or employers' organisation any powers are exercisable by the union or organisation to take any ballot or to declare or to discontinue any strike, it shall be unlawful, subject to the provisions of this Act, for such trade union or employers' organisation to delegate any such power to any other person.

22. It shall be unlawful for any employer to make it a condition of employment that an employee shall not be a member of a trade union or of any particular trade union.

On Clause Eleven,

On the motion of the Chairman,

Resolved : In sub-section (2), line 10, after "made" to insert "to the Registrar" ; in line 11, after "the" where it occurs for the second time to omit "inspector" and to substitute "Registrar" ; in sub-section (3), line 16, to omit "inspector" on each occasion where it occurs, and to substitute "Registrar" ; that the following be a new sub-section to follow sub-section (4) :—

(5) Whenever through a private registry office any person seeks employment in any undertaking, industry, trade or occupation in an area in which, to the knowledge of the person keeping or conducting the private registry office, a dispute exists between employers and employees in that undertaking, industry, trade or occupation, the person keeping or conducting the private registry office shall inform the person seeking employment of the fact and, as far as he is able, the nature of the dispute.

In sub-section (5), line 28, after (4) to insert "or (5)".

Clause, as amended, put and agreed to.

On Clause Twelve,

On the motion of the Chairman,

Resolved : To omit sub-section (1) and to substitute the following :—

(1) Whenever any local authority (as that term is defined in section *seven* of the Public Health Act, 1919) is unable or unwilling by reason of—

- (a) any lock-out, strike or concerted action of its employees ; or
- (b) any usurpation by any unauthorised person or persons of its powers,
to continue any service or function performed by it under the authority of any law, the Minister may, at the expense of the local authority and after serving notice upon it, himself or by any person whom he may authorize thereto, assume and, for such time as he deems fit, carry on the service or function, and he may for that purpose enter upon any premises of the local authority and do all other acts necessary.

In sub-section (2), line 44, after (2) to insert " The Minister or " ; in the same line after " by " to omit " the Minister " and to substitute " him " ; in sub-section (3), line, 54, after " the " to insert " Minister or " ; and that the following be a new sub-section to follow sub-section (3) :—

- (4) Whenever any such service as is referred to in sub-section (1) of section *eleven* of this Act is under the control of some other person than a local authority, the provisions of this section shall apply to such person in respect of such service in like manner as if that person were a local authority.

Clause, as amended, put and agreed to.

On Clause Thirteen,

On the motion of the Chairman,

Resolved : In line 59 after " exceeding " to omit " one thousand " and to substitute " five hundred " ; in line 60 to omit " with or without hard labour ", and in the same line after " exceeding " to omit " one year " and to substitute " two years or to both such fine and such imprisonment ".

Clause, as amended, put and agreed to.

Clause Fourteen put and agreed to.

On Clause Fifteen,

On the motion of the Chairman,

Resolved : In the definition of " conciliation board ", line 12, to omit " shall mean " and substitute " means ", and in line 13, at the end of the definition to omit " two " and substitute " four " ; in the definition of " employee ", line 16, after " undertaking " to omit " trade or " ; in line 17, after " industry " to insert " trade or occupation " ; in line 19, after " by " to omit " the " and substitute " any " ; in the definition of " employer ", in line 25, after " persons " to insert " (including a local authority) " ; in lines 27 and 28 to omit " other than members of his own family " ; in lines 28 and 29, to omit " or at any trade or " ; in line 29 after " industry " to insert " trade or occupation " ; and to omit all the words in line 30 ; to omit the definition of " inspector " ; after the definition of " inspector " to insert the following new definition—

" local authority " has the meaning assigned to it in section *seven* of the Public Health Act, 1919 ;

[S.C. 5—23.]

to omit the definition of "lock-out" and to substitute the following—

"lock-out" means the act of an employer in causing a suspension or temporary cessation of the work of any number of his employees and done in consequence of any dispute with him in reference to any specific terms of the employees' contract of service or in order to compel his own employees or to assist other employers to compel their employees to accept specific terms or conditions of employment ;

to omit the definition of "strike" and to substitute the following—

"strike" means a suspension or temporary cessation of work of any number of employees in order to compel their employer or to assist other employees in compelling the employer of such employees to agree to specific terms or conditions of employment ;

to omit the definition of "trade union" and to substitute the following—

"trade union" means any number of persons associated together either temporarily or permanently for the purpose of regulating relations between themselves and their employers or for protecting the interests of employees in any particular undertaking, industry, trade or occupation ;

after the definition of "employer" to insert the following new definition—

"employers' organisation" means any number of persons associated together either temporarily or permanently for the purpose of regulating relations between themselves and their employees or for protecting or furthering the interests of employers in any particular undertaking, industry, trade or occupation in relation to their employees ;

Clause, as amended, put and agreed to.

Clauses Sixteen and Seventeen put and agreed to.

On the motion of the Chairman,

Resolved : That the Committee revert to new Clause Seven.

On the motion of the Chairman,

Resolved : That new Clause Seven be a sub-section (1) and that the following be a new sub-section (2) :—

(2) When any award is made by an arbitrator appointed under this section, the terms of such award shall be binding on all parties represented on the Industrial Council or Conciliation Board which has agreed to the appointment of the arbitrator; and any person who is bound thereby who shall fail to accept or to carry out such award shall be guilty of an offence.

On the motion of the Chairman,

Resolved : That the following be a new Clause Nine to follow Clause Two :—

9. (1) When in any matter relating to any undertaking, industry, trade or occupation which has been under the consideration of an Industrial Council or Conciliation Board,

the parties make application to the Minister for a declaration by him that any agreement arrived at shall be binding upon the parties thereto, or shall be extended to other employers and employees within any area in that undertaking, industry, trade or occupation, the Minister may if he deems it expedient—

- (a) publish by notice in the *Gazette* the agreement arrived at, and therein notify that from a date and for such period as may be specified by him in the said notice, the terms of the agreement shall be binding upon the parties to the agreement and upon the employers and employees represented upon the said Council or Board; or
- (b) if he is satisfied that the applicants are sufficiently representative of the undertaking, industry, trade or occupation concerned, publish by notice in the *Gazette* the agreement arrived at and therein notify that from the date and for such period as may be specified by him in such notice, such terms of the said agreement as he may specially indicate shall within the area defined by him become binding upon all employers and employees in that undertaking, industry, trade or occupation,

and from and after the date of such notice such terms shall become binding upon the employers and employees named in the notice in that area.

(2) The Minister may by like notice and under similar conditions, at the request of the parties, extend the application of any award made by an arbitrator appointed in terms of section seven hereof.

(3) Any person who makes default in complying with any condition which has, by virtue of a notice published under this section, become binding upon him, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds, and shall further be liable to a fine not exceeding five pounds for every day on which the default continues after conviction.

On the motion of the Chairman,

Resolved: That the following be a new Clause Eleven to follow new Clause Ten:—

11. (1) Whenever an industrial council or a conciliation board has considered any dispute between a local authority (as defined in section seven of the Public Health Act, 1919) and its employees upon work connected with the supply of light, power, water, sanitary, transportation or fire extinguishing services and has failed to settle the dispute, the council or board shall

- (a) require the parties to the dispute to agree together within three days upon the appointment of an arbitrator for the determination of the dispute; and
- (b) communicate to the Minister the fact of such failure and the name of any arbitrator agreed to by the

to omit the definition of "lock-out" and to substitute the following—

"lock-out" means the act of an employer in causing a suspension or temporary cessation of the work of any number of his employees and done in consequence of any dispute with him in reference to any specific terms of the employees' contract of service or in order to compel his own employees or to assist other employers to compel their employees to accept specific terms or conditions of employment;

to omit the definition of "strike" and to substitute the following—

"strike" means a suspension or temporary cessation of work of any number of employees in order to compel their employer or to assist other employees in compelling the employer of such employees to agree to specific terms or conditions of employment;

to omit the definition of "trade union" and to substitute the following—

"trade union" means any number of persons associated together either temporarily or permanently for the purpose of regulating relations between themselves and their employers or for protecting the interests of employees in any particular undertaking, industry, trade or occupation;

after the definition of "employer" to insert the following new definition—

"employers' organisation" means any number of persons associated together either temporarily or permanently for the purpose of regulating relations between themselves and their employees or for protecting or furthering the interests of employers in any particular undertaking, industry, trade or occupation in relation to their employees;

Clause, as amended, put and agreed to.

Clauses Sixteen and Seventeen put and agreed to.

On the motion of the Chairman,

Resolved: That the Committee revert to new Clause Seven.

On the motion of the Chairman,

Resolved: That new Clause Seven be a sub-section (1) and that the following be a new sub-section (2):—

(2) When any award is made by an arbitrator appointed under this section, the terms of such award shall be binding on all parties represented on the Industrial Council or Conciliation Board which has agreed to the appointment of the arbitrator; and any person who is bound thereby who shall fail to accept or to carry out such award shall be guilty of an offence.

On the motion of the Chairman,

Resolved: That the following be a new Clause Nine to follow Clause Two:—

9. (1) When in any matter relating to any undertaking, industry, trade or occupation which has been under the consideration of an Industrial Council or Conciliation Board,

the parties make application to the Minister for a declaration by him that any agreement arrived at shall be binding upon the parties thereto, or shall be extended to other employers and employees within any area in that undertaking, industry, trade or occupation, the Minister may if he deems it expedient—

- (a) publish by notice in the *Gazette* the agreement arrived at, and therein notify that from a date and for such period as may be specified by him in the said notice, the terms of the agreement shall be binding upon the parties to the agreement and upon the employers and employees represented upon the said Council or Board; or
- (b) if he is satisfied that the applicants are sufficiently representative of the undertaking, industry, trade or occupation concerned, publish by notice in the *Gazette* the agreement arrived at and therein notify that from the date and for such period as may be specified by him in such notice, such terms of the said agreement as he may specially indicate shall within the area defined by him become binding upon all employers and employees in that undertaking, industry, trade or occupation,

and from and after the date of such notice such terms shall become binding upon the employers and employees named in the notice in that area.

(2) The Minister may by like notice and under similar conditions, at the request of the parties, extend the application of any award made by an arbitrator appointed in terms of section seven hereof.

(3) Any person who makes default in complying with any condition which has, by virtue of a notice published under this section, become binding upon him, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds, and shall further be liable to a fine not exceeding five pounds for every day on which the default continues after conviction.

On the motion of the Chairman,

Resolved: That the following be a new Clause Eleven to follow new Clause Ten:—

11. (1) Whenever an industrial council or a conciliation board has considered any dispute between a local authority (as defined in section seven of the Public Health Act, 1919) and its employees upon work connected with the supply of light, power, water, sanitary, transportation or fire extinguishing services and has failed to settle the dispute, the council or board shall

- (a) require the parties to the dispute to agree together within three days upon the appointment of an arbitrator for the determination of the dispute; and
- (b) communicate to the Minister the fact of such failure and the name of any arbitrator agreed to by the

parties to the dispute or that no agreement has been come to, if such is the case.

(2) Upon the receipt of any such notice the Minister shall appoint the arbitrator agreed upon by the parties to the dispute or, on failure of such agreement, an arbitrator selected by himself. The parties to the dispute shall be entitled to nominate one or more assessors to advise the arbitrator.

(3) any award made by an arbitrator appointed under this section shall be final and binding upon the parties to the dispute.

(4) Whenever any such service as is referred to in sub-section (1) of this section is in the area of any local authority under the control of some other person than the local authority, the provisions of this section shall apply to such other person and its employees in such service in like manner as if such person were a local authority.

On the motion of the Chairman,

Resolved that the following be a new sub-section to follow sub-section (2) of new Clause Four :—

(3) An officer of a trade union or a member of an organisation of employees may, as representative of such union or organisation, be a member of a conciliation board.

On the Title,

On the motion of the Chairman,

Resolved: After "the" in the first line to insert "prevention and"; in the third line to omit "and"; in the same line after "registration" to insert "and regulation" and in the last line after "other" to insert "incidental".

Title, as amended, put and agreed to.

Certain amendments were made in the Dutch version which do not affect the English version.

On the motion of Mr. Sampson,

Resolved: That the Chairman report the Bill with amendments, and specially report the amendments to the Title.

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