

Bill No. 43 of 1938.

A BILL RESPECTING THE ORGANIZATIONS OF EMPLOYEES AND PROVIDING FOR THE CONCILIATION AND ARBITRATION OF INDUSTRIAL DISPUTES.

NOTE.

Sections 4 to 8 of this Bill re-enact the substance of *The Freedom of Trade Union Association Act* and the remaining provisions of the Bill re-enact the substance of *The Labour Disputes Act*, both of which Acts are repealed by this Bill.

Section 4 recognizes the right of employers and employees to organize for any lawful purpose.

Section 5 declares it to be lawful for employees to bargain collectively with their employers through representatives of employees duly elected by a vote of the employees affected, and any employer refusing so to bargain shall be liable to a fine not exceeding five hundred dollars.

Section 6 declares it to be unlawful for an employer to make any stipulation in respect of any employment whereby the employee is restrained from exercising his rights under the Act.

Section 7 makes it an offence to compel any person to join or refrain from joining any organization or to refrain from becoming an officer of any association by intimidation, threat of loss of position or employment or by actual loss of position or employment, such offence being punishable by a fine of not more than five hundred dollars. This section does not prevent an organization of employees from maintaining an existing agreement or entering into a new agreement whereby all the employees of the employer are required to be members of a specified organization of employees.

Section 8 preserves the right of an employer to suspend, transfer, lay off, or discharge employees for proper and sufficient cause.

Section 9 provides for the filing with the Minister by every organization of employees and every branch or local thereof, copies of its constitution, rules and by-laws, and an annual list of names and addresses of its president, secretary and other officers, such information to be used for the purposes of the Act and not to be open to inspection by the public.

Section 10 requires a general statement of receipts and expenditures of every organization of employees to be trans-

mitted annually to the Minister, and every member of such organization is declared to be entitled to a copy of such statement free of charge. The non-compliance with this section on the part of an officer of an organization is declared to be an offence punishable by a fine.

Sections 11, 12, 13 and 14 provide for the appointment of a Conciliation Commissioner for the adjustment of disputes.

Section 15 provides for an inquiry by the Conciliation Commissioner into a dispute and authorizes him to effect a settlement of the dispute by conciliation.

Section 16 makes it the duty of the Conciliation Commissioner 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.

Section 17 provides for a report by the Conciliation Commissioner as to any dispute referred to him.

Section 18 provides for the reference of the dispute to arbitration in any case where the Conciliation Commissioner reports that he has been unable to effect a settlement.

Sections 19 to 21 prescribe the procedure leading up to the nomination of members of the Arbitration Board.

Section 22 provides for the appointment of three arbitrators by the Lieutenant Governor in Council as a Board of Arbitration, and provides that no person shall be appointed an arbitrator unless he is a British subject and has been a resident of Alberta for three years immediately preceding the date of appointment.

Sections 23 to 25 prescribe the oath to be taken by the members of the Board, the provision of the Board with secretarial, stenographic and other assistance, and the supplying of vacancies in the membership of the Board.

Sections 26 to 39 make provision as to the procedure to be followed by the Board in conducting any hearing, and the powers of the Board to compel the attendance of witnesses and production of documents; to take evidence under oath and to inspect any premises on which any industry has been carried on which has been made the subject of a reference to the Board.

Section 40 makes provision for the making of an award by the Board.

Section 41 provides that an award shall not make any direction or recommendation which conflicts with the provisions of *The Factories Act, 1926*, *The Hours of Work Act*, *The Minimum Wage Act, 1925*, *The Male Minimum Wage Act* or *The Industrial Standards Act*.

Section 42 provides for the signing of the award and its transmission to the Minister and for the reference by the

Minister to the Board where any question arises as to the meaning or application of or as to anything relating to or connected with the award.

Section 43 provides for the sending of a copy of the award to the parties to the dispute and the publication thereof.

Section 44 empowers the parties, subject to section 45, either to accept or reject the award.

Section 45 provides for the submission of the question of the acceptance or rejection of the award to a separate vote by the employees and employers, such vote to be by secret ballot and the taking of the vote is to be taken on a date fixed by the Minister and may be under the supervision of the Minister.

Section 46 prohibits an employer who is a party to a dispute from declaring or causing a lock-out, or any employees who are parties to the dispute to go on strike during the period between an application for the appointment of a Conciliation Commissioner under section 12 and fourteen days after the date fixed for the taking of a vote under section 45.

Section 47 provides that where any dispute arises, no employer is to make changes in wages or hours without the consent of the employees and no employer is to declare or cause a lock-out and no employees are to go on strike prior to an application for the appointment of a Conciliation Commissioner.

Section 48 provides that sections 11 to 47 of the Act shall be inapplicable in cases where there is an agreement between an employer and an organization of employees approved in writing by the Minister for the arbitration of disputes.

Section 49 provides a penalty for offences in respect of which no express penalty is imposed.

Section 50 provides that no court shall have power or jurisdiction to enforce any award made under this Act.

Section 51 provides that no proceeding under the Act shall be invalid by reason of any defect of form or any technical irregularity.

Section 52 provides for the payment of the costs of administration of the Act.

Section 53 provides for the making of regulations by the Lieutenant Governor in Council.

Section 54 repeals *The Labour Disputes Act* and *The Freedom of Trade Union Association Act*.

R. ANDREW SMITH,  
*Legislative Counsel.*

*(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)*

# BILL

No. 43 of 1938.

An Act respecting the Organizations of Employees and  
Providing for the Conciliation and Arbitration of  
Industrial Disputes.

(Assented to \_\_\_\_\_, 1938.)

**H**IS MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Alberta,  
enacts as follows:

1. This Act may be cited as "*The Industrial Conciliation  
and Arbitration Act.*"

2.—(1) In this Act, unless the context otherwise re-  
quires,—

- (a) "Application" means an application for the appointment of a Conciliation Commissioner under the provisions of this Act;
- (b) "Board" means a Board of Arbitration appointed under the provisions of this Act;
- (c) "Conciliation Commissioner" means a Conciliation Commissioner appointed under the provisions of this Act;
- (d) "Dispute" means any dispute or difference between an employer and a majority 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, and, without limiting the general nature of the above definition, includes all matters relating to,—
  - (i) the wages, allowance, or other remuneration of employees or the price paid or to be paid in respect of employment;
  - (ii) the hours of employment, sex, age, qualifications, or status of employees and the mode, terms, and conditions of employment;
  - (iii) the employment of children or any person or persons or class of persons, or the dismissal or refusal to employ any particular person or persons or class of persons;
  - (iv) claims on the part of an employer or an employee as to whether and, if so, under what circumstances preference of employment should or should not be given to one class over another class of persons being or not being members of labour or other organizations, British subjects, or aliens;

- (v) materials supplied and alleged to be bad, unfit, or unsuitable or damage alleged to have been done to work;
  - (vi) any established custom or usage, either generally or in the particular district affected;
  - (vii) the interpretation of an agreement or a clause thereof;
- (e) "Employer" means any person employing one or more persons or any number of employers acting together, or who in the opinion of the Minister have interests in common;
  - (f) "Employee" means any person employed by an employer to do any work for hire or reward in an employment to which this Act applies, but does not include employees in domestic service or in agriculture;
  - (g) "Lock-out" includes the closing of a place of employment or the suspension of work or the refusal of an employer to continue to employ a 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;
  - (h) "Minister" means the Minister of Trade and Industry;
  - (i) "Strike" or "to go on strike" includes the cessation of work by a body of employees acting in combination or the concerted refusal or the refusal under a common understanding of a number of employees 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;
  - (j) "Organization" when used in relation to employees, means any organization or association of employees formed for the purpose of regulating relations between employers and employees, and includes a trade-union; and when used in relation to employers means any organization or association of employers formed for the purpose of regulating relations between employers and employees.
- (2) Any person who was immediately before the occurrence of any strike or lock-out, or before his dismissal, as the case may be, an employee within the meaning and for the purposes of this Act, shall be deemed to be an employee,—
- (a) in the case of a strike or lock-out until the same is terminated; or
  - (b) in the case of dismissal where an application is made under this Act in respect thereof, until the application has been disposed of.

**3.** This Act shall apply only to matters within the legislative jurisdiction of the Province.

**4.** The right of employers and employees to organize for any lawful purpose is hereby recognized.

**5.** It shall be lawful for employees to bargain collectively with their employers and to conduct such bargaining through representatives of employees duly elected by a majority vote of the employees affected, and any employer refusing so to bargain shall be liable to a fine not exceeding five hundred dollars for each offence.

**6.** It shall be unlawful for any employer hereafter to insert any clause in any written contract of employment, or to impose any condition in any verbal contract of employment, or to continue such clause or conditions heretofore in effect where such clause or condition seeks to restrain any employee from exercising his rights under this Act, and any such clause or condition shall be of no effect.

**7.—(1)** Any person who by intimidation, threat of loss of position or employment or by actual loss of position or employment, or by any other threat, seeks to compel any person to join or refrain from joining any organization or to refrain from becoming an officer of any association shall be guilty of an offence, and liable to a fine of not more than five hundred dollars.

**(2)** Nothing contained in subsection (1) shall prevent an organization of employees from maintaining an existing agreement or entering into a new agreement with an employer or organization of employers, whereby all the employees of the employer or organization of employers are required to be members of a specified organization of employees.

**8.** Nothing in this Act shall detract from or interfere with the right of an employer to suspend, transfer, lay off, or discharge employees for proper and sufficient cause.

**9.—(1)** Every organization of employees and every branch or local of every such organization, shall file with the Minister,—

- (a)** a copy, duly certified by its proper officers to be true and correct, of its constitution, rules, and by-laws, containing a full and complete statement of its objects and purposes, and all amendments when made shall be likewise certified and filed with the Minister;
- (b)** an annual list of the names and addresses of its president, secretary, and other officers as at the thirty-first day of December in each year.

(2) The list mentioned in clause (b) shall be filed before the thirty-first day of January in each year.

(3) The information required to be filed under this section shall be used only for the purposes of this Act and shall not be open to inspection by the public.

**10.** A general statement of the receipts and expenditures of every organization of employees for the preceding calendar year verified by the affidavit of a responsible officer shall be transmitted to the Minister before the first day of February in every year, and shall be in such form and contain such particulars and such further information as the Minister may from time to time require. Every member of such organization shall, on application to the secretary or treasurer thereof, be entitled to a copy of such statement free of charge. Every officer of such organization who fails to comply with the provisions of this section shall be guilty of an offence and liable to a penalty on summary conviction therefor not exceeding one hundred dollars and costs and in default of payment to imprisonment for a term not exceeding thirty days.

**11.** Whenever any dispute exists and the parties there-to are unable to adjust it, either of the parties to the dispute may make application to the Minister for the appointment of a Conciliation Commissioner.

**12.** On application made pursuant to section 11, the Minister may, if he is satisfied that the dispute is a proper one for reference to a Conciliation Commissioner, appoint a Conciliation Commissioner, and may at the same time or subsequently refer to him any other dispute of a similar kind between any other employer and his employees. The decision of the Minister on the application shall be made within three days after the receipt of the application.

**13.** Whenever any dispute exists or is apprehended, the Minister may on his own initiative, if he thinks it expedient so to do, appoint a Conciliation Commissioner, and may at the same time or subsequently refer to him any other dispute of a similar kind between any other employer and his employees.

**14.** Upon the appointment of a Conciliation Commissioner, the Minister shall forthwith give notice of the appointment to the representatives of all parties to the dispute, and shall from time to time give notice of the appointment to the representatives of all parties who may become interested by reason of any dispute of a similar kind being referred to the same Conciliation Commissioner.

**15.—(1)** A Conciliation Commissioner shall, in such manner as he thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits and right settlement thereof.

(2) In the course of the inquiry the Conciliation Commissioner may make all such suggestions and do all such things as he deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute. The Conciliation Commissioner shall hear such representations as may be made on behalf of the parties to the dispute, and shall diligently seek to mediate between the employer and employees.

**16.** It shall be the duty of the Conciliation Commissioner 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.

**17.** The Conciliation Commissioner shall, within the time limited by the terms of his appointment, not to exceed fourteen days, transmit to the Minister a report setting forth the result of the reference:

Provided that with the unanimous consent of all parties the time for transmission of the report may be extended beyond fourteen days. The Minister shall forthwith transmit a copy of the report to the representatives of all parties to the dispute, and may publish the report in such manner as he sees fit.

**18.** In case the report of the Conciliation Commissioner is to the effect that he has failed to bring about any settlement or adjustment of the dispute, the Minister shall, where the Conciliation Commissioner was appointed pursuant to the provisions of section 12, forthwith refer the dispute to arbitration and shall notify the representatives of all parties to the dispute that he has so referred it. The arbitration shall be before a Board of three arbitrators.

**19.** The Minister shall forthwith serve notice on the representative of the employer, requiring the employer within the time limited by the notice, which time shall not exceed seven days, to appoint a person to act as arbitrator on behalf of the employer, and shall forthwith serve notice on the representative of the employees requiring the employees within the time limited by the notice, which time shall not exceed seven days, to appoint a person to act as arbitrator on behalf of the employees, and such two arbitrators shall appoint a person to act as third arbitrator, and the third arbitrator shall be Chairman of the Board.

**20.** Where any of the parties to a dispute is an organization having a president and secretary, notification shall be made to and service shall be made upon the president and secretary, and in every other case the Minister shall have power to determine the persons to be notified and served as



representatives for the purpose of this Act, and his determination shall be final.

**21.—**(1) If the employer fails to appoint an arbitrator within the time limited by the notice, the Minister shall appoint a person to act as arbitrator on behalf of the employer.

(2) If the employees fail to appoint an arbitrator within the time limited by the notice, the Minister shall appoint a person to act as arbitrator on behalf of the employees.

(3) If the two arbitrators fail to appoint a third arbitrator within five days after the day on which the last of the two arbitrators is appointed, the Lieutenant Governor in Council shall appoint a third arbitrator, who shall be Chairman of the Board.

**22.—**(1) As soon as the names of the three arbitrators are determined the Lieutenant Governor in Council shall designate them a Board of Arbitration for the purposes of this Act, and shall deliver to them a statement of the dispute to be inquired into by them.

(2) No person shall be appointed an arbitrator unless he is a British subject and has been a resident of Alberta for three years immediately preceding the date of appointment.

**23.** Before entering upon the exercise of the functions of their office, the members of a Board shall respectively make oath or affirmation before a Justice of the Peace or other person authorized to administer an oath or affirmation, 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. The oath or affirmation shall be forthwith filed with the Minister.

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

**25.** Every vacancy in the membership of a Board shall be supplied in the same manner as in the case of the original appointment of the arbitrator whose ceasing to act caused the vacancy.

**26.** As soon as possible after the Board is designated it shall, after serving sufficient notice on all parties, proceed to hear and determine the dispute.

**27.** The Board shall have power to determine its own procedure, but shall give full opportunity to all parties to present evidence and to be heard.

**28.** It shall be lawful for the members of the Board, by a summons under their hands or under the hand of any one of them, to require the attendance of any person as a witness before them at a place and time to be mentioned in the summons, which time shall be a reasonable time from the date of the summons, and in like manner by summons to require any person to bring and produce before them all documents, writings, books, deeds and papers in his possession, custody, or power touching or in anywise relating to or concerning the dispute; and every person named in and served with any such summons shall attend before the Board, and answer upon oath, unless the Board otherwise directs, all questions relating to the dispute and produce all documents, writings, books, deeds, and papers as aforesaid, according to the tenor of the summons.

**29.** If any person on whom any summons has been served by the delivery thereof to him or by the leaving thereof at his usual place of abode fails to appear before the Board at the time and place specified in the summons, or, having appeared before the Board, refuses to be sworn or to make answer to such questions as are put to him by the Board, or to produce and show to the Board all documents, writings, books, deeds, and papers in his possession, custody, or power touching or in anywise relating to or concerning the dispute, or if any person is guilty of any contempt of the Board, the Board shall have the same powers to be exercised in the same way as any Judge of the Supreme Court in the like behalf; and all gaolers, sheriffs, constables, bailiffs, and all other police officers shall give their aid and assistance to the Board in the execution of its office.

**30.** For the purpose of its inquiry the Board shall have the power of administering oaths. Any member of the Board may administer an oath.

**31.** 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.

**32.** 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 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, or refuses to answer any interrogation made as aforesaid, shall be guilty of an offence, and be liable to a penalty not exceeding one hundred dollars.

**33.** Any party to a reference may be represented before the Board by three or fewer than three persons designated by the parties respectively for that purpose.

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

**35.** 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 the party had duly attended or had been represented.

**36.** 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 dispute arose.

**37.** 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.

**38.** The presence of the Chairman and at least one other member of the Board shall be necessary to constitute a quorum for a sitting of the Board.

**39.** 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.

**40.—(1)** After making full inquiry and without undue delay, and in any event not more than fourteen days after the Board is designated pursuant to section 22, the Board shall make its award, and in its award the Board shall so far as practicable 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:

Provided that with the unanimous consent of all parties the time within which the Board shall make its award shall be extended for such time as may be agreed upon by the parties.

(2) The award shall in all cases be retroactive to the date of the application for the appointment of a Conciliation Commissioner, and whenever it appears to the Board expedient so to do its recommendations shall state the period during which the proposed settlement should continue in force.

**41.** The Board in its award shall not make any direction or recommendation which conflicts with the provisions of *The Factories Act, 1926*, *The Hours of Work Act*, *The Minimum Wage Act, 1925*, or *The Male Minimum Wage Act* or *The Industrial Standards Act* or the terms of any agreement made thereunder.

**42.—**(1) The Board's award shall be signed by such of the members as concur therein, and shall be transmitted by the Chairman to the Minister as soon as practicable after the submission of the dispute to the Board.

(2) Where any question arises as to the meaning or application of or as to anything relating to or connected with the award, the Minister may, if he deems it expedient, 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.

**43.** Upon receipt of the Board's award, the Minister shall forthwith cause a copy thereof to be sent to the respective parties to the dispute, and the Minister may publish the award in such manner as he thinks fit.

**44.** The parties may, subject to section 45, accept or reject the award.

**45.** The question of acceptance or rejection of the award shall be submitted to a separate vote by the employees and employers (if more than one employer is involved) respectively. The vote shall be held on such date as may be appointed by the Minister and shall be by secret ballot, and both in the case of the employees and of the employers the Minister may supervise the taking of the vote.

**46.—**(1) During the period of time intervening between an application for the appointment of a Conciliation Commissioner under section 12 and fourteen days after the date fixed for the taking of a vote under section 45, no employer who is a party to the dispute shall declare or cause a lock-out, nor shall any employees who are parties to the dispute go on strike.

(2) Subsection (1) shall not apply in any case where an application under section 12 is refused.

(3) Nothing in this Act shall prohibit the suspension or discontinuance of any industry or of the working of any persons therein for any cause not constituting a lock-out or strike.

**47.**—(1) Where any dispute arises, no employer shall make effective a proposed change in wages or hours without the consent of the employees, nor shall the employer declare or cause a lock-out, nor shall employees go on strike prior to an application for the appointment of a Conciliation Commissioner.

(2) The application for the appointment of a Conciliation Commissioner shall be made by the employer or employees proposing the change in wages or in hours. None of the parties 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 lock-out 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 until the application for the appointment of a Conciliation Commissioner has been made.

(3) Where an application for the appointment of a Conciliation Commissioner has been made pursuant to this section, all the provisions of this Act shall be applicable to the same extent as if the application had been made under section 11.

**48.** Where there is between an employer and an organization of employees an agreement, approved in writing by the Minister, for the arbitration of disputes, the employer and organization shall, so long as the agreement remains in force, be exempt from the provisions of sections 11 to 47 of this Act.

**49.** Any person who violates any of the provisions of this Act for which a penalty has not been provided shall be guilty of an offence, and shall be liable, on summary conviction, to a fine of not more than five hundred dollars.

**50.** No court shall have power or jurisdiction to enforce any award made under this Act.

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

**52.** Any moneys required for the administration of this Act or for carrying out any of the provisions of this Act shall, in the absence of any vote of the Legislative Assembly available therefor, be paid out of the General Revenue Fund.

**53.** The Lieutenant Governor in Council may make regulations not inconsistent with the spirit of this Act as to any matter or thing which appears to him necessary or advisable to the effectual carrying out of the provisions of this Act.

**54.** Each of the following Acts, namely, *The Labour Disputes Act*, being chapter 53 of the Statutes of Alberta, 1926, and *The Freedom of Trade Union Association Act*, being chapter 75 of the Statutes of Alberta, 1937, is hereby repealed.

**55.** This Act shall come into force on the first day of May, 1938.

SIXTH SESSION  
EIGHTH LEGISLATURE

1 GEORGE VI

1938

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**BILL**

An Act respecting the Organizations  
of Employees and Providing for the  
Conciliation and Arbitration of  
Industrial Disputes.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MANNING.

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EDMONTON:  
A. Shnitka, King's Printer  
1938