

1946-47.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

VOTES AND PROCEEDINGS
OF THE
HOUSE OF REPRESENTATIVES

No. 43.

TUESDAY, 29TH APRIL, 1947.

1. The House met, at three o'clock p.m., pursuant to adjournment. Mr. Speaker (the Honorable J. S. Rosevear) took the Chair, and read Prayers.
2. ALTERATION OF HOUR OF NEXT MEETING.—Mr. Chifley (Prime Minister) moved, That the House, at its rising, adjourn until to-morrow at half-past ten o'clock a.m.
Question—put and passed.
3. PAPERS.—The following Papers were presented, pursuant to Statute—
 - Commonwealth Public Service Act—Appointments—Department—Labour and National Service—W. H. McLean.
 - Parliamentary Reporting Staff—A. M. Leehy.
 - Defence (Transitional Provisions) Act—Regulations—Statutory Rules 1947, No. 21.
 - Forestry and Timber Bureau Act—Regulations—Statutory Rules 1947, No. 23.
 - Lands Acquisition Act—Land acquired for—
 - Defence purposes—Hamilton, Queensland.
 - Department of Supply and Shipping purposes—Townsville, Queensland.
 - Postal purposes—
 - Cranbourne, Victoria.
 - Hurstville, New South Wales.
 - Springwood, New South Wales.
 - Wallan, Victoria.
 - Wandoan, Queensland.
 - Wyandra, Queensland.
 - Matrimonial Causes Act—Rules of Court—Dated 17th March, 1947—Statutory Rules 1947, No. 50.
 - Re-establishment and Employment Act—Regulations—Statutory Rules 1947, No. 39.
4. COMMONWEALTH CONCILIATION AND ARBITRATION BILL 1947. The Order of the Day having been read for the further consideration of this Bill in Committee of the whole House. Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

(In the Committee.)

Clause 8—

Proposed section 36

On the motion of Mr. Holt, the following amendment was made, after debate :—

Page 13, line 3, after " of " insert " the Attorney-General or of "

Proposed section, as amended, agreed to.

Proposed sections 37 to 39 agreed to.

Proposed section 40—

On the motion of Mr. Evatt (Attorney-General), the following amendments were made :—

Page 14, lines 12 and 13, omit " a Conciliation Commissioner ", insert " the Court or by the Conciliation Commissioner "

Page 14, line 21, omit " A ", insert " The Court or a "

Proposed section, as amended, agreed to.

Proposed sections 41 and 42 agreed to.

Proposed section 43—

On the motion of Mr. Evatt, the following amendment was made :—

Page 15, line 2, omit " which comes before it or him ", insert " and the Court may, in relation to any other proceedings before it "

Proposed section, as amended, debated.

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On the motion of Mr. Evatt, the following further amendment was made :—

Page 15, lines 34-36, omit paragraphs (k) and (l).

Proposed section, as amended, agreed to.

Proposed section 43A debated and agreed to.

Proposed section 43B agreed to.

Proposed section 43C—

On the motion of Mr. Evatt, the following amendments were made :—

Page 16, line 33, after " Act," insert " the Court or ".

Page 16, line 35, after " the " insert " Court or ".

Proposed section, as amended, agreed to.

Mr. McEwen moved, That the following new section be inserted :—

" 43CA. (1.) The Court may, for the purposes of ensuring as far as may be deemed desirable uniformity of conditions and awards and preserving the interests of the public, enunciate from time to time such general principles as it may deem fit for the guidance of Conciliation Commissioners.

" (2.) Conciliation Commissioners shall observe the principles so enunciated by the Court, and, where an award or order of a Conciliation Commissioner differs from the principles so enunciated, the Court may determine what provision shall be made in such award or order in the issue in question, and it shall be made accordingly."

Debate ensued.

Proposed section negatived.

Proposed section 43D agreed to.

Proposed section 43E—

On the motion of Mr. Evatt, the proposed section was omitted, and the following section inserted in place thereof :—

" 43E. In determining an industrial dispute, the Court or a Conciliation Commissioner shall take into consideration the provisions of any law of a State or Territory of the Commonwealth relating to the safety, health and welfare of employees (including children) in relation to their employment."

Proposed section 43F—

On the motion of Mr. Evatt, the proposed section was omitted, and the following section inserted in place thereof, after debate :—

" 43F. (1.) In any proceedings before the Court or a Conciliation Commissioner ^{Representation of parties.}

(a) an organization may be represented by a member or officer of that organization ; and

(b) a party (not being an organization) may be represented by—

(i) an employee of that party ; or

(ii) a member or officer of an organization of which that party is a member.

" (2.) No party shall, in any proceedings before the Court, be represented by counsel, solicitor or paid agent, except by leave of the Court and with consent of all the parties. In any proceedings before a Conciliation Commissioner, no party shall be represented by counsel, solicitor or paid agent.

" (3.) This section shall not apply to judicial proceedings before the Court."

Proposed section 43G—

On the motion of Mr. Evatt, the proposed section was omitted, and the following sections inserted in place thereof :—

" 43G. An award shall be framed in such a manner as best to express the decision of the Court or Conciliation Commissioner and to avoid unnecessary technicality. ^{Form of awards.}

" 43GA. (1.) An award shall, subject to the next succeeding section, continue in force for a period to be specified in the award, not exceeding five years from the date upon which the award comes into force. ^{Continuance of awards.}

" (2.) After the expiration of the period so specified, the award shall, subject to the next succeeding section, and unless the Court, in the case of an award made by the Court, or a Conciliation Commissioner, in the case of an award made by a Conciliation Commissioner, otherwise orders, continue in force until a new award has been made.

" (3.) Where, in pursuance of the last preceding sub-section, an award has continued in force after the expiration of the period specified in the award, any award made by the Court or a Conciliation Commissioner for the settlement of a new industrial dispute between the parties may be made to operate from a date not earlier than the date upon which the dispute arose.

" (4.) The fact that an award has been made and is in force shall not prevent an award being made for the settlement of a further dispute between all or any of the parties to the first-mentioned award, with or without additional parties, and whether or not the subject matter of the further dispute is the same in whole or in part as the subject matter of the dispute determined by the first-mentioned award.

" 43GB. The Court may, with respect to a matter referred to in section twenty-eight of this Act, and a Conciliation Commissioner may, subject to section sixteen of this Act, if for any reason it or he considers it desirable to do so— ^{Setting aside and variation of awards.}

(a) set aside an award or any of the terms of an award ; or

(b) vary any of the terms of an award."

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Proposed section 43H—

On the motion of Mr. Evatt, the following amendment was made :—

Page 17, lines 41-41, omit paragraph (b), insert the following paragraphs :—

- “(b) all parties to the industrial dispute who have been summoned or notified, either personally or as prescribed, to appear as parties to the dispute, whether they have appeared or not ;
- “(ba) all persons who, having been notified, either personally or as prescribed, of the industrial dispute and of the fact that they are alleged to be parties thereto, do not, within the time prescribed, satisfy the Court or the Conciliation Commissioner that they are not parties to the dispute ;”.

Proposed section, as amended, agreed to.

Mr. Menzies (Leader of the Opposition) moved, That the following new section be inserted :—

“ 43HA.—

- (a) The following lock-outs shall be unlawful—
- (i) any lock-out against the terms of an award of a Court or of a Conciliation Commissioner ;
 - (ii) any lock-out which occurs in the course of an industrial dispute of which the Court or the Conciliation Commissioner has cognisance.
- (b) Any person including an organization of employers who does any act or thing in the nature of an unlawful lock-out, or takes part in an unlawful lock-out, or aids, incites or encourages an unlawful lock-out, shall be guilty of an offence.
Penalty : One thousand pounds.
- (c) The following strikes shall be unlawful—
- (i) any strike against the terms of an award of the Court or of a Conciliation Commissioner ;
 - (ii) any strike which occurs in the course of an industrial dispute of which the Court or a Conciliation Commissioner has cognisance.
- (d) Any person who in any way incites or encourages an unlawful strike shall be guilty of an offence.
Penalty : One hundred pounds.
- (e) Where an organization of employees or any of the members thereof take part in an unlawful strike such organization shall be deemed to be guilty of an offence.
Penalty : One thousand pounds.
- (f) (i) Where in the opinion of the Court an organization or any of its members is taking part in an unlawful lock-out or strike the Court may direct that a Receiver be appointed of the funds and assets of the said organization for such time and upon such terms as the Court may direct ;
- (ii) The Court may act under this section of its own motion or upon application made to it by the Attorney-General or any interested party, and in all cases before action is taken by the Court under this section notice shall be given to the organization concerned and to such other persons as the Court shall think fit.
- (g) Any offence against this section may be prosecuted either summarily or upon indictment, but an offender shall not be liable to be punished more than once in respect of the same offence.
- (h) An offence against this section shall not be prosecuted summarily without the written consent of the Attorney-General or a person thereto authorized in writing by the Attorney-General and an offence against this section shall not be prosecuted upon indictment except in the name of the Attorney-General.
- (i) In this section “ lock-out ” (without limiting its ordinary meaning) includes 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 with a view to compel his employees or to aid another employer in compelling his employees to accept terms of employment.
- “ Strike ” (without limiting its ordinary meaning) includes the cessation of work by any number of employees acting in combination or a concerted refusal or a refusal under a common understanding by any number of employees to continue to work for an employer with a view to compel their employer or to aid other employees in compelling their employer to accept terms of employment or with a view to enforce compliance with demands made by them or other employees on employers or with a view to influencing the decisions of the Court or of a Conciliation Commissioner in any matter.”.

Debate ensued.

Progress to be reported, and leave asked to sit again.

The House resumed ; Mr. Clark reported accordingly.

Resolved—That the House will, at the next sitting, again resolve itself into the said Committee.

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5. ADJOURNMENT.—Mr. Evatt (Attorney-General) moved, That the House do now adjourn.
Debate ensued.
Question—put and passed.

And then the House, at twenty-four minutes past eleven o'clock p.m., adjourned until to-morrow at half-past ten o'clock a.m.

MEMBERS PRESENT. All Members were present (at some time during the sitting) except Mr. Abbott. Mr. Adermann, Mr. Blain, Mr. Conelan, Mr. Daly, Mr. Davidson, Mr. Drakeford, Mr. Duthie, Mr. Edmonds, Mr. Fadden, Mr. Hadley, Mr. Harrison, Mr. Holloway, Mr. Howse, Mr. Lang, Mr. McBride, Sir Earle Page, Mr. Riordan, Mr. Spender and Mr. Watkins.

F. C. GREEN,
Clerk of the House of Representatives.