

*Industrial Relations***INDUSTRIAL RELATIONS**

AMENDMENT OF ACT OF 1947-48—REINSTATEMENT AND COMPENSATION

Mr. J. W. Noseworthy (York South) moved the second reading of Bill No. 10, to amend the Industrial Relations and Disputes Investigation Act (reinstatement and compensation).

He said: Mr. Speaker, this amendment proposes to add a new section to the Industrial Relations and Disputes Investigation Act in the following words:

The board shall have power to make an order requiring an employer to reinstate any employee discharged contrary to the provisions of this act and to pay such employee the monetary loss suffered by reason of such discharge.

The purpose of the amendment, as indicated, is to give power to the board to make an order requiring an employer to reinstate any employee discharged contrary to the provisions of the act, and to pay such employee or employees the monetary loss sustained.

The reason for introducing this amendment with the approval and at the request of the trade union movement, and with the approval of the heads of the two labour congresses, has arisen from certain cases which have developed in Ontario, where their industrial disputes investigation legislation was modelled along the lines of the federal act.

Let me give one example to illustrate the cases which have arisen and have been brought before the courts in Ontario. On July 29, 1948, the consent of the Ontario labour relations board was obtained in respect of a prosecution for the offence of refusing or failing to comply with an order of the minister of labour, by refusing to reinstate the named employees in the employment of the firm. The charge was brought to the court and heard before a magistrate. The magistrate found that the men had been fired and referred to the order that they were to be taken back and said that the company had done nothing to take them back. The magistrate went on to point out that under the act he could do nothing but pronounce a conviction and impose a penalty, and in that case the penalty was fixed at \$3,120. The company appealed to the county court and the county court judge upheld the conviction and the fine, but found himself unable to give an order reinstating the men who had been fired or granting compensation. The county court judgment was given on September 7, 1949, and up to this day the company has refused to take back the employees or to compensate them. Apparently there is no authority under the act whereby a court or the board can make such an order. It is to give the board the authority to order the reinstatement of

men fired under those circumstances and to compensate them that this amendment is introduced.

Mr. Smith (Calgary West): Was an action taken to obtain compensation for the wrong that has been done?

Mr. Noseworthy: The case was brought before the Ontario labour relations board in the first instance, which board issued an order that the men should be taken back. The company refused to take back the men and the case went to the magistrate's court where a conviction was given and a fine imposed. The magistrate declared that there was no authority under the act to issue an order for the reinstatement of the men. The case was then appealed to the county court.

Mr. Mitchell: Can my hon. friend give me the name of the company?

Mr. Noseworthy: The case was brought by the International Woodworkers of America against Canada Cabinets and Furniture Limited of Kitchener.

Mr. Smith (Calgary West): I can quite understand the magistrate saying that he had no right to award damages although the company was liable to a fine under some punitive section, but has any action been taken by these men for wrongful dismissal? Surely a dismissal against the provisions of the act must be wrongful.

Mr. Noseworthy: The only suggestion made to the employees was that they should bring a civil action against the company but apparently there were difficulties that rendered that practically impossible. While that is under consideration, the action has not been taken as yet.

Hon. Humphrey Mitchell (Minister of Labour): Mr. Speaker, I do not know whether I should speak now but there are one or two fundamentals in connection with this legislation that perhaps should be referred to. We are now dealing with legislation which was passed by this parliament, not by any province. I have always taken the position that the labour relations board is not a judicial body. In a court action there would be a judge with some knowledge of the law and perhaps a jury composed of people like my hon. friend.

My experience in the administration of this legislation has been that it should be based on conciliation instead of having recourse to the courts. That is why in the dominion field the minister is given authority to appoint industrial disputes inquiry commissioners to look into breaches of the act. As I say, my approach to labour problems in the federal field has been based on conciliation rather