THE LABOUR PARTY.

OPINION

ON

THE MUNITIONS OF WAR ACT

1915.

By

HENRY H. SLESSER

(Standing Counsel to the Labour Party).

28 VICTORIA STREET, LONDON, S.W.
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OPINION
ON THE
MUNITIONS OF WAR ACT, 1915.

This Act has been passed in order to make provision for furthering the efficient manufacture, transport, and supply of Munitions for the War. It will continue in force so long as the Ministry for Munitions lasts.

I. SETTLEMENT OF DIFFERENCES IN CERTAIN CASES:

The Act provides that if any difference as to rates of wages, hours of work, or otherwise as to terms or conditions of or affecting employment on the manufacture or repair of arms, ammunition, ships, vehicles, air-craft, or any other articles required for use in war, or of the metals, machines, or tools required for that manufacture or repair exists between any employer and persons employed, or between any two or more classes of persons employed, that difference, if not determined by the parties directly concerned, may be reported to the Board of Trade, by or on behalf of either party. (The decision of the Board of Trade as to whether a difference has been so reported to them or not, and as to the time at which a difference has been so reported is conclusive.)

The Board of Trade must consider the difference so reported and take any steps which seem to them expedient to promote a settlement of the difference, and, in any case, they may refer the matter for settlement to either of the following

ARBITRATION TRIBUNALS.

(A) to (1) The Committee appointed by the First Lord of the Treasury known as the Committee on Production, or

(2) A single arbitrator to be agreed upon by the parties or in default of agreement appointed by the Board of Trade, or

(3) A Court of Arbitration consisting of an equal number of persons representing employers and persons representing workmen, with a chairman appointed by the Board of Trade.

(The Tribunal to which the reference is made being determined by agreement between the parties to the difference or in default of such agreement by the Board of Trade.)
(B) If in the opinion of the Board of Trade suitable means of settlement already exist in pursuance of any agreement between employers and persons employed they may refer the matter for settlement in accordance with those means.

(If, however, this method of settlement by agreement is in the opinion of the Board of Trade unduly delayed, the Board may annul the reference and substitute the statutory tribunal.)

**EFFECT OF AWARD.**

In either case the award is binding both on employers and employed and may be retrospective; and if any employer, or persons employed, thereafter acts in contravention of, or fails to comply with, the award he will be liable to a fine *not exceeding five pounds* for each day or part of a day during which the contravention or failure to comply continues, and if the person guilty of the offence is an employer for each man in respect of whom the contravention or failure takes place.

**PROHIBITION OF STRIKES AND LOCK-OUTS IN CERTAIN CASES.**

An employer must not declare, cause or take part in a lock-out *in connection with the above specified class of differences* (that is the closing of a place of employment, or the suspension of work, or the refusal by the employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment). A person employed must not take part in a strike (that is the cessation of work by a body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other workmen in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment) *in connection with such class of differences* unless the difference has been reported to the Board of Trade, and twenty-one days have elapsed since the date of the report, and the difference has not during that time been referred by the Board of Trade for settlement. Any employer acting in contravention of this will be liable to a fine *not exceeding five pounds*, in respect of each man locked out, for each day or part of a day during which the contravention continues; and, if the offence is a
contravention of the provisions of the Act with respect to the prohibition of strikes, the employed person will be liable to a fine not exceeding five pounds for each day or part of a day during which the contravention continues.

The Act may be extended to any differences as to rates of wages, hours of work, or otherwise as to terms or conditions of or affecting employment on any other work of any description by His Majesty by Proclamation on the ground that in the opinion of His Majesty the existence or continuance of the difference is directly or indirectly prejudicial to the manufacture, transport, or supply of Munitions of War. But where the Act is applied to any difference concerning work other than munitions work the conditions of labour and the remuneration thereof prevailing before the difference arose shall be continued until the said difference is settled in accordance with the Act.

However, if in the case of any industry the Minister of Munitions is satisfied that effective means exist to secure without stoppage the settlement of any difference arising on work other than on munitions work, no proclamation will be made with respect to any such difference.

The Act applies to a difference whether a lock-out or strike is in existence in connection with the difference to which it is applied or not.

II. CONTROLLED ESTABLISHMENTS:

If the Minister of Munitions considers it expedient for the purpose of the successful prosecution of the War that any establishment in which munitions work is carried on should be subject to the special provisions as to (a) limitation of employers' profits and (b) control of persons employed, he may make an order declaring that establishment to be a controlled establishment, and on such order being made the following provisions apply:—

(a) PROFITS.

Any excess of the net profits of the controlled establishment over the amount divisible under this Act, as ascertained in accordance with the following provisions, must be paid into the Exchequer.

The net profits of a controlled establishment are to be ascertained so that the amount of profits divisible under the Act shall be taken to be an amount exceeding by one-fifth the standard amount of profits and the standard amount of profits for any period shall be taken to be the average of the amount of the net profits for the two financial years of the establishment completed next before the outbreak of the War or a proportionate part thereof, the whole being subject to certain powers of exemption on the part of the Minister of Munitions.
(b) CONTROL OF EMPLOYEES.

Any proposal for any change in the rate of wages, salary of any class of persons employed in the establishment or of any persons engaged in the management or the direction of the establishment (other than a change for giving effect to any Government conditions as to fair wages or to any agreement between the owner of the establishment and the workmen which was made before June 23rd, 1915) must be submitted to the Minister of Munitions, who may withhold his consent within fourteen days of the date of the submission.

If the Minister of Munitions so directs, or if the Minister’s consent is withheld and the persons proposing the change so require, the matter shall be referred for settlement in accordance with the statutory provisions for arbitration already mentioned, and the consent of the arbitration tribunal, if given, shall in that case have the same effect as the consent of the Minister of Munitions.

If the owner of the establishment or any contractor or subcontractor employing labour therein makes any change, or attempts to make any such change, without submitting the proposal for the change to the Minister of Munitions or when the consent of the Minister has been withheld, he shall be liable in respect of each offence to a fine not exceeding three pounds.

Any custom not having the force of law which tends to restrict production or employment must be suspended in the establishment, and if any person induces or attempts to induce any other person (whether any particular person or generally) to comply, or continue to comply, with such a custom, that person is liable in respect of each offence to a fine not exceeding fifty pounds.

If any question arises whether any custom is a rule, practice or custom which tends to restrict production or employment, that question must be referred to the Board of Trade, and the Board of Trade will either determine the question themselves, or, if they think it expedient or either party requires it, refer the question for settlement in accordance with the statutory provisions for arbitration. The decision of the Board of Trade or Arbitration Tribunal, as the case may be, shall be conclusive for all purposes.

The owner of the establishment will be deemed to have entered into an undertaking to carry out the following provisions:—

(a) Any departure during the War from the practice ruling in the workshops, shipyards, and other industries prior to the War shall only be for the period of the War.
(b) No change in practice made during the War shall be allowed to prejudice the position of the workmen in the owners' employment, or of their trade unions in regard to the resumption and maintenance after the War of any rules or customs existing prior to the War.

(c) In any re-adjustment of staff which may have to be effected after the War priority of employment will be given to workmen in the owners' employment at the beginning of the War who have been serving with the colours or who were in the owners' employment when the establishment became a controlled establishment.

(d) Where the custom of a shop is changed during the War by the introduction of semi-skilled men to perform work hitherto performed by a class of workmen of higher skill, the time and piece rates paid shall be the usual rates of the district for that class of work.

(e) The relaxation of existing demarcation restrictions or admission of semi-skilled or female labour shall not affect adversely the rates customarily paid for the job. In cases where men who ordinarily do the work are adversely affected thereby, the necessary re-adjustments shall be made so that they can maintain their previous earnings.

(f) A record of the nature of the departure from the conditions prevailing when the establishment became a controlled establishment shall be kept, and shall be open for inspection by the authorised representative of the Government.

(g) Due notice shall be given to the workmen concerned wherever practicable of any changes of working conditions which it is desired to introduce as a result of the establishment becoming a controlled establishment, and opportunity for local consultation with workmen or their representatives shall be given if desired.

(h) All differences with workmen engaged on Government work arising out of changes so introduced or with regard to wages or conditions of employment arising out of the War shall be settled in accordance with this Act without stoppage of work.
(i) But nothing in these provisions (except as provided by the fourth paragraph thereof) shall prejudice the position of employers or persons employed after the War.

The employer and every person employed in the establishment must comply with any regulations made applicable to that establishment by the Minister of Munitions with respect to the general ordering of the work in the establishment with a view to attaining and maintaining a proper standard of efficiency and with respect to the due observance of the rules of the establishment.

Regulations already issued require that—

(1) The owner of any controlled establishment shall as soon as practicable, post rules relating to order, discipline, time-keeping, and efficiency conspicuously in his establishment so as to bring them effectively to the knowledge of workmen employed therein. Copies of rules so posted must be sent to the Minister of Munitions.

(2) Every person employed in the establishment shall comply with any rule so posted; but no person shall be liable to a penalty under the Act for failing or refusing to comply with any rule, if the Munitions Tribunal is satisfied that the rule is an unreasonable one, or that the person had just cause for his failure or refusal to comply with it.

If the employer or any person so employed acts in contravention of or fails to comply with any such regulation, that employer or person shall be liable in respect of each offence to a fine not exceeding three pounds.

The Act continues to apply for a period of twelve months after the conclusion of the present War to any difference arising in relation to the performance by the owner of any establishment of his undertaking to carry out the provisions above as to restoration of rules, etc., set out, notwithstanding that the Office of Minister of Munitions and the Ministry of Munitions have ceased to exist.

The owners of an establishment have power, notwithstanding anything in any Act, Order or Deed under which they are governed, to do all things necessary for compliance with any provisions of this section, and any owner of an establishment must comply with any reasonable requirements of the Minister of Munitions as to information or otherwise made for the purposes of this section, and,
if he fails to do so, shall be liable in respect of each offence to a fine not exceeding three pounds.

Where in any establishment munitions work is carried on in some part of the establishment but not in other parts, the Minister of Munitions may, if he considers that it is practicable to do so, treat any part of the establishment in which munitions work is not carried on as a separate establishment, and the provisions of the Act then take effect accordingly.

VOLUNTARY UNDERTAKING TO WORK FOR MUNITIONS.

If any workman in accordance with arrangements made by the Minister of Munitions with or on behalf of Trade Unions enters into an undertaking that he will work at any controlled establishment to which he may be assigned by the Minister, and be subject to the penalty imposed by the Act, if he acts in contravention of or fails to comply with the undertaking becomes liable in respect of each offence to a fine not exceeding three pounds.

If any employer dissuades or attempts to dissuade a workman from entering into such an undertaking, or offers to retain in his employment any workman who has entered into such an undertaking after he has received notice from the Minister of Munitions that the workman is to work at some other establishment, he is liable in respect of each offence to a fine not exceeding fifty pounds.

WORKMAN'S CERTIFICATE.

A person must not give employment to a workman who has within the last previous six weeks (or such other period as may be provided by Order of the Minister of Munitions) been employed on or in connection with munitions work in any factory or workshop the business carried on in which consists wholly or mainly in engineering, shipbuilding, or the production of arms, ammunition or explosives or of substances required for the production thereof, or any other class to which the Act may be applied by Order of the Minister of Munitions, unless he holds a certificate from the employer by whom he was last so employed that he left work with the consent of his employer or a certificate from the Munitions Tribunal that the consent has been unreasonably withheld.
If any workman or his Trade Union representative complains to a Munitions Tribunal in accordance with rules made with respect to those tribunals that the consent of the employer has been unreasonably withheld the Tribunal may, after examining into the case, if they think fit, grant a certificate which has the same effect as a certificate from the employer.

If any person gives employment in contravention of this provision he is liable in respect of each offence to a fine not exceeding fifty pounds.

BADGES.

The Minister of Munitions may authorise the wearing of badges or other distinctive marks by persons engaged on munitions work or other work for War purposes and make rules as to the issue and return of any such badges or marks, and may prohibit the use, wearing or issue of any such badges or of any badges or marks indicating or suggesting that any person is engaged on munitions work or work for War purposes, and if any person acts in contravention of or fails to comply with any such rules he shall be liable in respect of each offence to a fine not exceeding fifty pounds.

DOCKS.

The part of the Act dealing with controlled establishments applies to any docks used by the Admiralty for any purposes connected with the War as it applies to establishments in which munitions work is carried on and in such cases the Admiralty will be the authority instead of the Minister of Munitions.

III. GENERAL PROVISIONS:

CONTROL OF PRODUCTION OF MUNITIONS.

The Act amends the Defence of the Realm Acts 1914 and 1915 and empowers the Admiralty or Army Council to regulate or restrict the carrying on of any work in any factory, workshop or other premises, or the engagement or employment of any workman or all or any classes of workmen therein, or to remove the plant therefrom with a view to maintaining or increasing the production of munitions in other workshops, factories or premises, or to regulate and control the supply of metals and material that may be required for any articles for use in War.
EMPLOYER'S DUTY TO GIVE INFORMATION.

The owner of any establishment in which persons are employed must, if so required by the Minister of Munitions, give to the Minister such information, in such form and in such manner, as the Minister may require as to:

(a) The numbers and classes of persons employed or likely to be employed in the establishment from time to time;

(b) The numbers and classes of machines at any such establishment;

(c) The nature of the work on which any such persons are employed or any such machines are engaged from time to time;

(d) Any other matters with respect to which the Minister may desire information for the purpose of his powers and duties;

and the Minister may arrange with any other Government department for the collection of any such information, and if the owner of any establishment fails to comply with this section he shall be liable in respect of each offence to a fine not exceeding fifty pounds, or if any employer, or the owner of any establishment or any workman, for the purpose of evading any provision of this Act, makes any false statement or representation, or gives any false certificate, or furnishes any false information, he shall be liable in respect of each offence to a fine not exceeding fifty pounds.

IV. MUNITIONS TRIBUNALS:

A fine for any offence under the Act is recoverable only before a Munitions Tribunal established for the purpose under the Act.

The travelling and other expenses (including compensation for loss of time) incurred by members of the Tribunals will be paid by Parliament.
The Minister of Munitions has constituted two classes of Munitions Tribunals; which Tribunals are or may be vested generally, except so far as expressly provided, with the powers of Courts of Summary Jurisdiction:

(a) Having jurisdiction to deal with all offences and matters under the Act (called General Munitions Tribunals);

(b) Having jurisdiction so far as offences are concerned, to deal only with any contravention of, or failure to comply with, any regulation made applicable to a controlled establishment or any undertaking given by a workman under that part of the Act which deals with controlled establishments (called Local Munitions Tribunals).

A person employed or workman cannot be imprisoned in respect of the non-payment of a fine imposed by a Munitions Tribunal for an offence within the jurisdiction of a Local Munitions Tribunal, but that Tribunal may, without prejudice to any other available means of recovery, make an order requiring such deductions to be made on account of the fine from the wages of the person employed or workman as the Tribunal think fit, and requiring the person by whom the wages are paid to account for any sums deducted in accordance with the order.

No case will be heard, tried, or adjudged except in open Court.

The Chairman must consult with his assessors before giving his decision.

The question of costs is in the absolute discretion of the Chairman, who may order the same to be paid by any party or parties to the proceedings in such manner as he shall direct, and may either assess the amount thereof himself or may refer the same for assessment to any other person appointed by the Minister of Munitions for the purpose. An order for costs may be enforced by the Tribunal in the same way as a fine.

The Minister of Munitions must appoint for each Tribunal a clerk, to whom all fines shall be paid; fines shall be paid by him into the Exchequer.

Every Tribunal must keep a register of complaints made to them and proceedings taken by them under the Act, and must furnish the Minister of Munitions with duplicates thereof when required by him to do so.
(a) GENERAL MUNITIONS TRIBUNAL.

A General Munitions Tribunal consists of a Chairman appointed for the purpose by the Minister of Munitions sitting with assessors drawn respectively from an employers’ panel and from a workmen’s panel provided for the purpose by the Minister of Munitions and may be constituted generally or for any district specified by the Minister of Munitions. It has jurisdiction to deal with all offences under the Act and any other matters therein specified, but must not deal with any matter with which a Local Munitions Tribunal is competent to deal unless such matter arises in connection with a matter with which a Local Munitions Tribunal is not competent to deal, or is for any reason referred to the General Munitions Tribunal by the Minister of Munitions.

Any complaint relating to any matter with which a Local Munitions Tribunal is not competent to deal, must be made in writing by any person aggrieved or by or on behalf of the Minister of Munitions or by any person acting on the instructions general or special of the Minister of Munitions to the Chairman of the General Munitions Tribunal appointed for the district in which the matter arose or to the Minister of Munitions who must forthwith refer the case to a General Munitions Tribunal.

Any person upon whom a fine of £20 or more has been imposed by a General Munitions Tribunal may appeal to a Court of Quarter Sessions.

(b) LOCAL MUNITIONS TRIBUNAL.

A Local Munitions Tribunal consists of a Chairman appointed for the purpose by the Minister of Munitions sitting with assessors drawn respectively from an employers’ panel and from a workmen’s panel.

Unless the Minister of Munitions shall otherwise direct, the members of panels of persons representing employers and workmen constituted under Section 90 of the National Insurance Act, 1911, for their respective districts, shall, if willing to serve, be the panels for the purposes of Local Munitions Tribunals for the same districts.

The term of office of the Chairman and of the members of the panels shall be such period as the Minister of Munitions may direct.

Casual vacancies on the panels, whether of employers or workmen, may be filled by the Minister of Munitions, and any person employed to fill a vacancy shall hold office until the expiration of the period during which the person in whose place he is appointed would have
held office. Provided that the Minister shall not be bound to fill any casual vacancy unless he thinks fit so to do, and a panel shall not be deemed to be improperly constituted by reason only that a casual vacancy on the panel has not been filled.

Each member of a panel shall, so far as practicable, be summoned to serve in turn upon the Local Munitions Tribunal from a rota prepared in advance. Such summons shall be by notice given not less than one week in advance wherever practicable. Provided that where a meeting of a Local Munitions Tribunal takes place immediately before or after a meeting of a Court of Referees for the same district the members of the employers' and workmen's panels summoned to serve as members of such Court of Referees may be summoned to serve also as assessors on such Tribunal.

No person who is either an employer or a workman in any trade or group of trades to which the provisions of Part II. of the Act apply shall be qualified for appointment as Chairman.

In the event of any member of a panel being unavoidably prevented from attending a sitting of a Local Munitions Tribunal at the time when he is summoned in accordance with the rota, any other member of the panel may be summoned in his place.

A supplementary Local Munitions Tribunal may be constituted for any district at any time by the Minister of Munitions, and members of the panel for that district may be summoned to attend such Tribunal by one clear day's notice if practicable.

A Local Munitions Tribunal has jurisdiction to deal only with complaints that any person has acted in contravention of or failed to comply with regulations made applicable to the controlled establishment in which he is either an employer or is employed or a voluntary undertaking to engage in munitions work under the control of the Minister of Munitions into which a workman has entered, and complaints that an employer has unreasonably withheld his consent to give a certificate. (The form of the latter complaint is given in the Appendix.)

Complaints must be made by any person aggrieved or by or on behalf of the Minister of Munitions in writing to the Chairman of the Local Munitions Tribunal appointed for the district in which the matter arose, or to some other person appointed by him for the purpose.
No person may be fined for an offence under the Act unless he has appeared before the Local Munitions Tribunal or the Tribunal is satisfied that he has had a reasonable opportunity of so appearing.

The Tribunal shall for the purpose of adjudicating upon any such complaint have power to take evidence upon oath.

Where a fine has been imposed on a person employed or a workman, the Tribunal may make an order requiring such deductions to be made on account of the fine from the wages of such person employed or workman as the Tribunal think fit and requiring the person by whom the wages are paid to pay to the clerk to the Tribunal or other person appointed for the purpose by the Minister of Munitions any sums so deducted.

No party to any proceeding before a Local Munitions Tribunal may be represented by counsel or solicitor, but it is doubtful how far such a person may be represented through his Trade Union in cases other than those arising out of a refusal to grant certificates where the right of Trade Union representation is expressly given.

The Admiralty is substituted for the Minister of Munitions as the authority to appoint and choose members of a Munitions Tribunal to deal with offences by persons employed in any docks declared to be controlled establishments by the Admiralty.

Rules made under the Act must be laid before each House of Parliament, and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after any such rule is laid before it praying that the rule may be annulled, His Majesty in Council may annul the rule, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

HENRY H. SLEESSER,
11, King’s Bench Walk,
Temple, E.C.

30th July, 1915.

KENNETH BROWN, BAKER, BAKER & CO.,

Solicitors,

Lennox House,
Norfolk Street,
Strand, W.C.
APPENDIX.

Form of Complaint by a Workman or his Trade Union Representative that a Certificate under Section 7.—(1) of the Munitions of War Act, 1915, has been unreasonably withheld by his Employer.

To the Chairman of the Local Munitions Tribunal at ........................................

Strike out the alternatives which do not apply.

1. ..............................................................................................................................

or 1. ......................................................................................................................

or I. ................................................................. Trade Union Representative, of .................................................................

employed

or lately employed as .................................................................

by Messrs .............................................................

at .................................................................

hereby complain that a Certificate under Section 7.—(1) of the Munitions of War Act, 1915, has been unreasonably withheld from me

or the said .................................................................

The grounds upon which this complaint is made are the following:

Signed:

Name in full ........................................................................................................

Address .............................................................................................................

Date ....................................................................................................................

NOTE: No allowance for witnesses' expenses will be made by the Treasury unless the Chairman considers their evidence necessary and has directed them to be summoned. Space is provided on the Form below for particulars regarding any witnesses whom the Complainant desires the Chairman to summon.

Particulars as to Witnesses.

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<tr>
<td>Name of 1 Foreman</td>
<td>Signed</td>
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M.T.