

*The Committee of Council submit for the consideration of
His Honour the Administrator a Bill intituled*

"Railway Operation Continuation Act"

*and advise that the same be transmitted by Message to the
Legislative Assembly.*

Victoria, 4th day of May, A.D. 1976

W. R. Bennett.

Presiding Member of the Executive Council.

Approved this 4th day of May, A.D. 1976

John L. Cairns

Administrator.

WMB

Art T. Jamn
Administrator

First Session, Thirty-first Parliament
25 Elizabeth II, 1976
Legislative Assembly of British Columbia

BILL 22
RAILWAY OPERATION CONTINUATION ACT

Honourable Minister of Labour

Printed by K. M. MACDONALD, Printer to the Queen's Most Excellent Majesty
in right of the Province of British Columbia.
1976

EXPLANATORY NOTE

The purpose of this Bill is to provide for the appointment of a Special Commission to inquire into all matters pertinent to the relations between British Columbia Railway Company and the trade-unions. It also provides for the continued operation of the Railway for a period of 4 years.

BILL

No. 22]

[1976

Railway Operation Continuation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpre-
tation.**1. In this Act**

"collective agreement" means a collective agreement, between the employer and its employees or their trade-union, that expired before this Act comes into force or expires during the period that this Act is in force, and has not been, or is not, renewed;

"employee" means a person who is ordinarily employed by the employer;

"employer" means the British Columbia Railway Company;

"minister" means that member of the Executive Council charged by order of the Lieutenant-Governor in Council with the administration of this Act;

"trade-union" means a trade-union representing some or all of the employees of the employer.

PART ISpecial
Commission.

2. (1) The minister may, with the approval of the Lieutenant-Governor in Council, appoint a Special Commission consisting of such number of persons as he considers necessary or advisable.

(2) The Lieutenant-Governor in Council shall designate a chairman and may designate a vice-chairman from among the members of the Special Commission.

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman, and in the absence of the chairman and vice-chairman from any meeting of the Special Commission, the members of the Special Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

(4) Every vacancy on the Special Commission caused by the death, resignation, or incapacity of a member may be filled by the appointment, by the Lieutenant-Governor in Council, of a person to hold office for the remainder of the term of that member.

(5) Each of the members of the Special Commission is eligible for reappointment upon the expiration of his term of office.

(6) Three members of the Special Commission constitute a quorum and are sufficient for the exercise of all the authority of the Special Commission.

(7) The members of the Special Commission shall be paid such remuneration and expenses as are determined by the Lieutenant-Governor in Council.

(8) The Special Commission may, with the approval of the minister, appoint and pay such assistants, advisors and employees as are necessary for the purpose of carrying out its duties.

**Duties of
Special
Commission.**

3. The Special Commission shall inquire into all matters pertaining to the relationships between the employer and the employees or their trade-unions and the disputes or differences arising between them, with a view to securing and maintaining industrial peace and furthering harmonious relations between them and

- (a) may report its recommendations to the minister from time to time, and shall report to the minister on request,
- (b) if directed by the minister, shall publish the report, and
- (c) shall make and submit annually to the minister a report respecting its activities during the previous fiscal year, and the annual report shall be laid before the Legislative Assembly if it is then sitting, and, if it is not sitting, within 15 days after the commencement of the first session in the following calendar year.

**Powers of
Special
Commission.**

4. The Special Commission, in carrying out an inquiry under this Act,

- (a) has all the powers of a Commissioner under sections 7, 10 and 11 of the *Public Inquiries Act*,
- (b) may receive and accept evidence and information on affidavit, or otherwise, as in its discretion it considers advisable, whether or not it is admissible as evidence in court, and
- (c) may determine its own procedure, but shall give an opportunity to any interested party to present evidence and make representations.

**Inquiries
of Special
Commission.**

5. Without limiting the generality of section 3, the Special Commission may

- (a) inquire into and make a report and recommendations respecting any matter not included or referred to in the new or revised collective agreements entered into by the parties pursuant to this Act, and
- (b) inquire into and make a report and recommendations respecting job evaluation in railway services,

and the report and recommendations so made are final and binding on the employer and the employees and their trade-unions.

**Railway
services
to be
resumed.**

6. (1) Immediately upon the coming into force of this section,
- (a) the employer shall resume the normal operation of the railway and shall not declare, authorize, acquiesce in, or engage in a lockout of employees,
 - (b) every employee who was bound by a collective agreement to which this Act applies and who is locked out or on strike, shall, subject to subsection (4), resume the normal duties of his employment, and
 - (c) no person or trade-union shall declare, authorize, acquiesce in, or engage in a strike of the operation of the employer, or declare, authorize, acquiesce in, or engage in picketing of the place of business, operation, or employment of the employer.

(2) Every person who, at the time this section comes into force, is authorized on behalf of a trade-union to bargain collectively with the employer for the amendment, renewal, or revision of a collective agreement shall immediately give notice to the members of the trade-union on whose behalf he is authorized to bargain that a declaration, authorization, or direction to go on strike, declared, authorized, or given to them before or after the coming into force of this section, has become or is invalid, and that any strike and picketing is prohibited by reason of the coming into force of this section.

(3) Subject to subsection (4), no person acting on behalf of the employer shall

- (a) refuse to permit, or authorize or direct another person to refuse to permit an employee who went on strike before the coming into force of this section to resume the duties of his ordinary employment forthwith, or
- (b) suspend, discharge, or in any manner discipline, or authorize or direct another person to suspend, discharge, or in any other manner discipline such an employee

by reason of his having been on strike before the coming into force of this section.

(4) Nothing in this Act shall be construed as affecting the right of the employer

- (a) to transfer or lay-off an employee, or
- (b) to suspend, discharge, or discipline an employee for just and reasonable cause.

**Extension of
collective
agreements.**

7. (1) The term of every collective agreement to which this Act applies is extended to include the period beginning from its expiry date and ending on the date on which a new or revised collective agreement comes into effect.

(2) The terms and conditions of every collective agreement to which this Act applies are effective and binding on the parties to it for the period referred to in subsection (1) notwithstanding anything in the *Labour Code of British Columbia* or in the collective agreement.

(3) During the term during which a collective agreement is extended by subsection (1),

- (a) section 6 applies,
- (b) subject to section 6 (4) the employer shall not, except with the consent of the trade-unions, alter the rates of wages of the employees or any other term or condition of employment that was in operation on the expiry date referred to in subsection (1), and
- (c) the trade-unions shall not, except with the consent of the employer, alter any of the terms or conditions of employment that were in operation on the expiry date referred to in subsection (1).

PART II

Board of Arbitration.

8. (1) Where the employer and any trade-union are unable to conclude a new or revised collective agreement, the minister may, after considering the report of a mediation officer appointed to confer with the parties pursuant to the *Labour Code of British Columbia*, appoint one or more persons as a Board of Arbitration.

(2) Where more than one person is appointed, the Board of Arbitration shall consist of a chairman, and members, equal in number, representing the employer and the employees.

(3) Where an arbitrator is unable to enter on or complete his duties so as to enable him to render his decision within a reasonable time after his appointment, the minister shall appoint another person to act as arbitrator in his place and the inquiry may begin as a re-hearing or proceed to completion.

(4) The Board of Arbitration shall determine its own procedure, but shall give full opportunity to the employer and the trade-unions to present their evidence and make their submissions.

(5) The Board of Arbitration has all the powers of an arbitrator under the *Labour Code of British Columbia*.

Employer and trade-unions to negotiate.

9. The employer and all trade-unions representing the employees shall, upon the appointment of a Board of Arbitration by the minister, forthwith, with the assistance of the Board of Arbitration, enter into negotiations with a view to the settlement of the matters in dispute, and shall negotiate in good faith and make every reasonable effort to conclude a settlement and to enter into new or revised collective agreements.

Duty of Board of Arbitration.

10. (1) The Board of Arbitration shall examine into and decide all matters remaining in dispute between the employer and the trade-unions and any other matters that appear to the Board of Arbitration to be necessary to be

decided in order to conclude new or revised collective agreements between the parties.

(2) The Board of Arbitration shall remain seized of and may deal with all matters in dispute until new or revised collective agreements between the employer and the trade-unions are in full force and effect.

(3) Where, before or during the proceedings before the Board of Arbitration, the employer and the trade-unions agree upon some matters to be included in new or revised collective agreements and they so notify the Board of Arbitration in writing, the decision of the Board of Arbitration shall include those matters and, in addition,

- (a) the matters not agreed upon between the employer and the trade-unions,
- (b) such other matters as may be agreed upon by the employer and the trade-unions, and
- (c) such other matters as may appear to the Board of Arbitration to be necessary to be decided in order to conclude the new or revised collective agreements.

(4) The Board of Arbitration shall conclude the inquiry and give its decision within 30 days after the commencement of the inquiry; but the minister may extend the inquiry for such period as he considers necessary or advisable, or where all the parties to a particular collective agreement agree in writing, the Board of Arbitration may extend the inquiry for the period agreed upon.

(5) Where, before or during the proceedings before the Board of Arbitration, the employer and the trade-unions agree, the Board of Arbitration may use

- (a) fact-finding, or
- (b) final offer selection, or
- (c) mediation to finality

or a combination of those methods, in order to make a decision on all matters remaining in dispute.

Decision of
Board of
Arbitration
binding.

11. (1) The decision of the Board of Arbitration shall be final and binding upon the employer and the trade-unions and the employees on whose behalf the trade-unions are entitled to bargain with the employer under the *Labour Code of British Columbia*.

(2) Within 7 days after the date of the decision of the Board of Arbitration or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute documents giving effect to the decision of the Board of Arbitration, and the documents so executed constitute new or revised collective agreements.

(3) If the parties fail to prepare and execute documents in the form of new or revised collective agreements giving effect to the decision of the Board

of Arbitration within the period referred to in subsection (2), the parties or any of them shall notify the Board of Arbitration in writing forthwith, and the Board of Arbitration shall prepare documents in the form of new or revised collective agreements giving effect to the decision of the Board of Arbitration and any agreement of the parties and submit the documents to the parties for execution.

(4) If the parties or any of them fail to execute the documents prepared by the Board of Arbitration within a period of 7 days after the day of submission of the documents by the Board of Arbitration to them, the documents shall come into effect as though they had been executed by the parties and the documents constitute new or revised collective agreements under the *Labour Code of British Columbia*.

Arbitration
Act not
to apply.

12. (1) The *Arbitration Act* does not apply to proceedings under this Act.

(2) The employer and the trade-unions shall assume their own costs of proceedings under this Act, and the remuneration and expenses of the chairman of the Board of Arbitration shall be paid out of the Consolidated Revenue Fund without an appropriation other than this Act.

PART III

Other Acts.

13. (1) Unless inconsistent with this Act, the definitions, provisions and procedures set out in the *Labour Code of British Columbia* and the regulations under that Act apply, with the necessary changes and so far as they are applicable.

(2) Where there is a conflict or inconsistency between this Act and the *Labour Code of British Columbia*, this Act applies.

(3) Any question or difference between the parties

(a) as to whether this Act, a decision of the Board of Arbitration, or a binding report or recommendation of the Special Commission has been complied with, or

(b) respecting the interpretation or application of this Act may be referred by the parties or any of them to the Labour Relations Board, and the Labour Relations Board may decide the question or difference and enforce the decision

(c) in any of the ways, and

(d) by applying any of the remedies

available for the enforcement of a decision or order of the Labour Relations Board under the *Labour Code of British Columbia*.

- Regulations.** 14. The Lieutenant-Governor in Council may make regulations.
- Appropriation.** 15. Money required for the purpose of this Act shall, until March 31, 1977, be paid out of the Consolidated Revenue Fund and thereafter out of money authorized by the Legislature for that purpose.
- Commencement and expiry.** 16. (1) This Act comes into force on a day to be fixed by Proclamation, and
- (a) the Proclamation may apply to, and fix a day for the coming into force of, any provision of the Act, and
 - (b) Proclamations may be issued at different times in respect of different provisions of the Act.
- (2) This Act expires 4 years after the first Proclamation issued under subsection (1) comes into force; but if an Arbitration Board has been appointed under section 8 and has not completed its decision, the Lieutenant-Governor in Council may extend this Act until the Arbitration Board has given its decision.