

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1916.

A BILL

To amend the law for the regulation of the conditions of industries by means of industrial conciliation and arbitration, and for the repression of lock-outs and strikes; to amend the Metropolitan Water and Sewerage Act of 1880, the Metropolitan Water and Sewerage Act Amendment Act of 1888, the Metropolitan Water and Sewerage Act Amendment Act of 1889, the Metropolitan Water and Sewerage Act Extension Act of 1894, the Hunter District Water and Sewerage Acts, 1892-1897, the Hunter District Water and Sewerage (Amendment) Act, 1906, the Country Towns Water and Sewerage Acts, 1880-1905, the Municipality of Sydney Electric Lighting Act, 1896, the Sydney Corporation Act, 1902, the Sydney Corporation Amendment Act, 1905, the Sydney Corporation (Amendment) Act, 1908, the Sydney Corporation (Dwelling-houses) Act, 1908, the Sydney Harbour

Trust Act, 1900, the Common Carriers Act, 1902, the Fire Brigades Act, 1902, the Gas Act, 1912, the Government Railways Act, 1912, the Industrial Arbitration Act, 1912, the Mines Inspection Act, 1901, the Mines Inspection Amendment Act, 1904, the Coal Mines Regulation Act, 1912, the Coal Mines Regulation (Amending) Act, 1913, and certain other Acts; and for purposes consequent thereon or incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Industrial Arbitration (Strike Clauses) Act, 1916," and shall be construed with the Industrial Arbitration Act, 1912, hereinafter referred to as the Principal Act.

2. In this Act, unless the context otherwise indicates, "public utility" means and includes every employer who owns, operates, leases, or controls, or has power to own, operate, lease, or control, to or for the public, any plant, property, or facility—

- (a) for the transportation or conveyance of passengers, or property, by railway, tramway, or water;
- (b) for the generation, transmission, distribution, sale, or furnishing of electricity for light, heat, or power, including any culverts, ducts, or other devices, materials, apparatus, or property, or containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power;
- (c) for the manufacture, distribution, sale or furnishing of gas for light, heat, or power;
- (d) for the supply, storage, distribution, or furnishing of water for irrigation, manufacturing, municipal, domestic, or other uses. **3.**

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3. Section five of the Principal Act is amended by inserting in the definition of "strike" before the words "cessation of work" the words "relaxation or," and before the words "continue to work" the words "maintain an established rate or standard of work or to".

4. Sections forty-four to forty-eight inclusive are repealed, and the following sections are inserted in place of them :—

44. Lock-outs and strikes from whatever motives or for whatever purpose (including sympathetic or secondary lock-outs or strikes), apart from crime or breach of contract, shall hereafter be lawful, but shall, subject to such order or orders as the Court may in its discretion see fit to make, disentitle the employers or employees concerned therein as principals or aiders and abettors in any degree and their associations or unions to the benefits conferred by the Principal Act and this Act for such period not exceeding three years as may be determined by the Court, or in the absence of any such determination for the period of one year from the time of the cessation of the strike or lock-out in which they respectively have been so concerned.

45. (1) An act done by a person in contemplation or furtherance of a lock-out or strike shall not be actionable on the ground only that it induces some other person to break a contract of employment, or that it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

(2) An agreement or combination by an industrial union or members thereof, or by an employer or employers, to do or procure to be done any act in contemplation or furtherance of a strike or lock-out shall not be indictable as a conspiracy if such act, if committed by one person, would not be punishable as a crime.

46. (1) The Minister may at any time, or from time to time during the progress of a lock-out, or whenever

whenever he has reason to believe that a lock-out is contemplated by any combination or association of employers, direct that a secret ballot shall be taken in the manner prescribed of such employers for the purpose of determining whether a majority of such employers are or are not in favour of the institution or continuance respectively of the lock-out.

(2) The Minister may at any time or from time to time during the progress of any strike, or whenever he has reason to believe that a strike is contemplated by the members of any industrial or trade union, or body of employees, direct that a secret ballot or secret ballots of such members or employees shall be taken in the manner prescribed for the purpose of determining whether a majority of such members or employees are or are not in favour of the institution or continuance respectively of the strike.

47. (1) Upon the occurrence of an alleged strike or lock-out the court, at the direction of the Minister, shall, or of its own motion, may inquire whether a strike or lock-out has in fact occurred, and what unions, associations, or other bodies or persons are engaged or concerned therein or affected thereby, and into the cause or causes and effects or probable effects upon the public of such strike or lock-out, and, after completing its inquiry, shall in every case report the results of such inquiry to the Minister.

The court shall also publish from day to day or in its discretion at longer intervals reasonably full reports of the proceedings and evidence upon any such inquiry for the information of the Minister and of the public, and in order that a sound public opinion upon the questions involved may come into existence. The Minister shall submit the report and findings and any recommendation of the court to Parliament.

(2) Any employees of the Crown as defined in section eighteen of this Act who appear from such

such report to have been or to be engaged or actively concerned in a strike against the Crown as employer which is reprobated in the public interest by the court may by order of the court made at the conclusion of such inquiry be deprived of all or any of the rights and privileges to which, by the terms of their appointment or the rules of the service or any Act of Parliament they may be or may become entitled, including rights of seniority, promotion, and gratuity, and the same shall not be restored to them or any of them except by a further order or orders of the court: Provided that no such order of deprivation shall in any case have effect for any greater period than three years.

5. Upon the occurrence of any lock-out or strike in any industry which in the opinion of the court upon inquiry as hereinbefore prescribed has or is likely to have the effect of depriving the public wholly or to any extent detrimental to the public interest of the services of any public utility or of any necessary commodity, the Governor may make regulations for the conduct of such industry, and such regulations shall, subject to the provisions of section seventy-three, have the force of law for the period to be specified in such regulations.

Regulations so made may not only deal with any or all of the matters or things which may be or may have been covered by an award, but may also, in order to protect the public interest—

prescribe the rates, prices, or conditions at, for, or under which the services or commodities affected shall be supplied, sold, or furnished;

prescribe the manner in which an employer's operations or business shall be conducted in any particular; and

prescribe the course which is to be taken by any industrial or trade union or body of employees, whether directly or only indirectly concerned in the said lock-out or strike, in the management of its or their corporate or joint affairs generally, or for the special purpose of ensuring that

that employees needed to perform the work of the industry as fully and effectually as such work was performed prior to the lock-out or strike, are available for and ready to accept employment at such work.

Nothing contained in the Acts mentioned in the Schedule, or in any regulations or special rules made thereunder shall have the effect of limiting or restricting the operation of any regulations made under the authority of this section.

6. (1) Where—

- (a) the Minister has made a direction for the taking of a ballot by an association of employers or an industrial or trade union or body of employees, and the ballot has not been taken bona fide and in the manner prescribed ; or
- (b) the Governor has made regulations for the conduct of an industry as hereinbefore prescribed, and the employers or employees concerned or affected by such regulations have failed to comply therewith—

the court may, of its own motion or on the application of the Minister made ex parte or upon the application of any person interested made after notice, order that the funds and property of such employers or industrial or trade union or body of employees be sequestered, and shall thereupon appoint a receiver to the same who shall have all the powers of a receiver appointed by the Court of Equity, and shall also, until his appointment is cancelled at the discretion of the court, administer at his own discretion the funds, property, business, or affairs of such employers or of such industrial or trade union or body of employees.

(2) When an order for sequestration has been made under this section, it shall not be lawful for any bank, corporation, or company, or person, whether as principal or agent, to account for or cash cheques, or orders on, or otherwise deal with the funds or property of or lend moneys to the said union or combination or employer whether such funds or property are situate in

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New South Wales or elsewhere, and whether such cheques or orders are drawn upon or made payable to persons or bankers in New South Wales or elsewhere; and any person who acts as trustee of the funds or property of such union or combination or employer, and every person who receives or expends or otherwise deals with such property or funds, except in accordance with an order of the court, shall be liable to repay any such funds or any moneys received by or payable to him on his order in respect of dealings with such property into the court, and to a penalty not exceeding *five hundred* pounds.

In any proceedings under this subsection the burden of proving that the person charged was not aware that an offence under this section had been committed shall be upon him. In any proceedings against a bank or corporation or company under this section, the manager in New South Wales of such bank or corporation or company shall be deemed to be liable personally for the acts or omissions of such bank or corporation or its officers.

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SCHEDULE.

Reference to Act.	Title or Short Title.
43 Victoria No. 32 ...	Metropolitan Water and Sewerage Act of 1880.
51 Victoria No. 28 ...	Metropolitan Water and Sewerage Act Amendment Act of 1888.
53 Victoria No. 16 ...	Metropolitan Water and Sewerage Act Amendment Act of 1889.
57 Victoria No. 12 ...	Metropolitan Water and Sewerage Act Extension Act of 1894.
.....	Hunter District Water and Sewerage Acts, 1892-1897.
No. 33 of 1906 ...	Hunter District Water and Sewerage (Amendment) Act, 1906.
.....	Country Towns Water and Sewerage Acts, 1880-1905.
No. 23 of 1896 ...	Municipality of Sydney Electric Lighting Act, 1896.
No. 35 of 1902 ...	Sydney Corporation Act, 1902.
No. 39 of 1905 ...	Sydney Corporation Amendment Act, 1905.
No. 27 of 1908 ...	Sydney Corporation (Amendment) Act, 1908.
No. 8 of 1912 ...	Sydney Corporation (Dwelling-houses) Act, 1912.
No. 1 of 1901 ...	Sydney Harbour Trust Act, 1900.
41 Victoria No. 21 ...	Common Carriers Act, 1902.
No. 80 of 1902 ...	Fire Brigades Act, 1902.
No. 71 of 1912 ...	Gas Act, 1912.
No. 30 of 1912 ...	Government Railways Act, 1912.
No. 17 of 1912 ...	Industrial Arbitration Act, 1912.
No. 75 of 1901 ...	Mines Inspection Act, 1901.
No. 21 of 1904 ...	Mines Inspection Amendment Act, 1904.
No. 37 of 1912 ...	Coal Mines Regulation Act, 1912.
No. 11 of 1913 ...	Coal Mines Regulation (Amending) Act, 1913.