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[CONFIDENTIAL]  
(Bough Draft for Consideration Only.)

No. , 1932.

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# A BILL

To constitute a Public School Teachers Appeal Board; to make provision for the reference to such appeal board of appeals by public school teachers; to amend the Public Service Act, 1902, and certain other Acts; and for purposes connected therewith.

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**B**E 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.** (1) This Act may be cited as the "Public School Teachers Appeals Act, 1932," and shall be read with the Public Service Act, 1902, as amended by subsequent Acts. Short title and commencement.

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(2) The Public Service Act, 1902, as so amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence upon a date to be appointed by the Governor, and notified by proclamation published in the Gazette.

**2.** In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

“ Appeal Board ” means an appeal board constituted under this Act ;

“ Chairman ” includes vice-chairman ;

“ Permanent head ” means the Under-Secretary of the Department of Public Instruction ;

“ Prescribed ” means prescribed by this Act or the regulations thereunder ;

“ Public School Teacher ” means every person employed in the Public Service who is a member of the industrial union of employees known as the New South Wales Public School Teachers Federation, and every person so employed who, though not a member as aforesaid, is, under the rules of that industrial union for the time being in force, eligible to become such a member.

**3.** The Principal Act is amended by inserting at the end of section nineteen the following paragraph :— Amendment of Act No. 31, 1902, s. 19.

This section shall not extend to or in respect of a public school teacher as defined in the Public School Teachers Appeals Act, 1932.

**4.** (1) Any person who, at the time of the decision of the Public Service Board hereinafter referred to in this subsection, is a public school teacher, if dissatisfied with any decision of the Public Service Board either particular or general made or given after the commencement of this Act in regard to seniority or grade affecting him, or to the classification of the work performed by or assigned to him, or to the imposition upon him of any punishment, where such punishment consists of the infliction of a fine, suspension, or reduction whether in rank or pay, dismissal, discharge, or transfer may, subject to this Act, appeal from such decision to the appeal board. Appeal to appeal board. cf. Act No. 33, 1923, s. 6.

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(2) A person desiring to appeal against any such decision shall give notice of appeal in the prescribed manner.

(3) A notice of appeal shall have no force or effect whatsoever unless at the time of its lodgment it is accompanied by a certificate in or to the effect of the prescribed form signed by the Secretary of the New South Wales Public School Teachers Federation or other prescribed officer of that industrial union.

The certificate shall bear a date subsequent to the making or giving of the decision referred to in the notice of appeal, and shall set out that the appellant is upon the date of the certificate or was, immediately prior to the making or giving of the decision appealed against, a financial member of the New South Wales Public School Teachers Federation.

(4) The notice of appeal shall be given by the appellant to the Public Service Board through the permanent head within thirty days of the receipt by the appellant of the notification of the decision appealed against.

The Public Service Board shall, within seven days after the receipt of the notice of appeal, refer the appeal to the chairman of the appeal board, who shall fix a date and place for the hearing thereof, and shall give at least seven days notice to the parties of the date and place of such hearing.

5. (1) For the purposes of this Act there shall be constituted an appeal board which shall be known as the Public School Teachers Appeal Board.

Appeal Board.  
cf. Act No. 43, 1916, s. 2.

(2) The appeal board shall consist of—

- (a) a chairman, who shall be the judge of a district court, or, where the chairman is absent from any meeting of the appeal board, a vice-chairman, who shall have the qualifications of a stipendiary or police magistrate, each of whom shall be appointed to the office by the Governor, and shall hold such appointment for a term of five years;

(b)

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- (b) such person, being an officer of the Public Service within the meaning of the Principal Act as the permanent head authorises to sit on the appeal board at the hearing of the appeal;
- (c) a public school teacher who has been elected for that purpose as hereinafter provided.

(3) The public school teachers shall, as soon as practicable, and thereafter every three years, elect from among themselves a representative and his deputy to sit on the appeal board.

Any public school teacher so elected may, until the next election under this section, sit on the appeal board. The deputy shall only sit in case of the death, illness, or absence of the representative, or on any appeal affecting the representative.

Any vacancy in the office of representative or deputy so elected shall be filled by an election under this section.

Every election under this section shall be by ballot and shall be conducted in accordance with a system of preferential voting prescribed by regulations made under this Act, which shall follow as nearly as may be the system used under the Parliamentary Electorates and Elections Act, 1912-1929.

If an election under this section is for any cause void, or if such election is not held the Governor may appoint a public school teacher to hold the office. A notification of any such appointment shall be published in the Gazette.

**6.** Upon the hearing of an appeal under this Act by the appeal board the following provisions shall have <sup>Hearing of appeal.</sup> effect:—

- (a) Each member of the appeal board shall have one vote, and the decision of the majority in number of such members shall be the decision of the appeal board.
- (b) The appeal board may if it thinks fit admit evidence taken at any departmental inquiry or inquiry conducted by the Public Service Board or its representative at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence.

(c)

- (c) Except where otherwise provided in this section, all evidence taken upon the hearing of an appeal by the appeal board shall be on oath.
- (d) Evidence of witnesses resident more than twenty miles from the place at which an appeal under this Act is being heard may be taken by affidavit or in any other manner directed by the appeal board.
- (e) An appellant may conduct his case in person or by an agent, but no barrister or solicitor shall appear on behalf of either party to the appeal.
- (f) The Public Service Board shall be entitled to be represented before the appeal board upon the hearing of any appeal.
- (g) The appeal board may, subject to this Act and the regulations, regulate its own procedure.
- (h) For the purposes of any appeal under this Act the appeal board shall have the powers and immunities of a Commission, and the chairman shall have the powers of a chairman within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923; and the provisions of that Act, with the exception of section thirteen and of Division 2 of Part II, shall, mutatis mutandis, apply to any witness or person summoned by or appearing before the appeal board.

**7.** (1) The chairman shall forward to the Public Service Board a copy, certified as correct under the hand of the chairman, of the evidence taken, together with a statement of the decision of the appeal board or of a majority of the appeal board.

Decision of  
the appeal  
board.

If the chairman or any member of the appeal board does not agree with such decision he may forward a separate report stating his reasons for dissenting therefrom and making such recommendations as he may think fit.

(2) The Public Service Board shall transmit such decision, evidence, recommendations, and reports, together with the Public Service Board's report and recommendation thereon, to the Minister.

(3)

(3) The decision of the appeal board, together with the report and recommendation (if any) of the chairman or any member of the board disagreeing with such decision, and the report and recommendation of the Public Service Board, shall be considered by the Minister whose decision thereon shall be final.

8. An appeal shall not be heard in public, unless for some special reason the appeal board deems it advisable that it should be so heard. Appeal not to be heard in public.

9. (1) The Governor may make regulations— Regulations.

- (a) defining the procedure to be followed by the appeal board ;
- (b) providing for the method of election of the representative of the New South Wales Public School Teachers Federation and his deputy to the appeal board ;
- (c) the fees and allowances of members of the appeal board ;
- (d) providing for the payment of witnesses' expenses ;
- (e) prescribing the duties of any officer assigned to act as secretary to the appeal board ;
- (f) generally prescribing any matter or thing which is required or authorised to be prescribed or is necessary or convenient to be prescribed for carrying out the provisions of this Act.

(2) Such regulations shall—

- (a) be published in the Gazette ;
- (b) take effect from the date of publication, or from a later date to be specified in such regulations ; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.