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No. , 1917.

A BILL

To sanction the construction of a line of railway from Regent's Park to Cabramatta; to authorise the construction of the said line on public roads; to amend the Public Works Act, 1912, so far as it relates to the making and maintaining of fences along the said line; and for purposes consequent thereon or incidental thereto.

[MR. BALL;— , 1917.]

WHEREAS, in accordance with the provisions of Preamble.
the Public Works Act, 1912, the Legislative
Assembly did by resolution declare that it was expedient
to carry out a certain work, namely, the construction
5 of a line of railway from Regent's Park to Cabramatta:
And whereas, on the passing of the said resolution,

- a statutory duty was by the said Act imposed on some member of the Executive Council having a seat in the said Assembly to introduce a Bill into the said Assembly to sanction the carrying out of the said work: Be it therefore enacted by the King's Most Excellent Majesty, 5
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:—
- Short title. **1.** This Act may be cited as the "Regent's Park to 10
Cabramatta Railway Act, 1917."
- Work sanctioned. **2.** The carrying out the said work (more particularly described in the Schedule to this Act) is hereby sanctioned.
- Plan of work. **3.** The plan of the said work is the plan marked 15
"Schedule Plan—Regent's Park to Cabramatta," signed by the Secretary for Public Works, and countersigned by the Chief Engineer for Railway and Tramway Construction, and deposited in the public office of the said Secretary. 20
- Cost, how to be defrayed. **4.** The cost of carrying out the said work, estimated at one hundred and eighteen thousand six hundred and seventy-six pounds (exclusive of land resumptions), shall be defrayed from such loan votes as are now, or may hereafter be, applicable to that purpose, or from appropriations of the Public Works Fund, or partly from such 25
votes and partly from the said appropriations, and shall not under any circumstances exceed the estimated cost by more than ten per centum.
- Line may be constructed on road. **5.** The said line of railway may be constructed on or 30
along or by the side of any public road or highway.
- Fencing not required along the line. **6.** Notwithstanding the provisions of section ninety-one of the Public Works Act, 1912, the Constructing Authority shall not be required or compelled, nor shall it be the duty of the said Authority to make or maintain 35
any fence along the said line of railway for the accommodation of any person or for any purpose whatsoever; but the said authority may in its discretion make and maintain such fences in connection with the said line of railway as it may think fit. 40

SCHEDULE.

THIS railway commences at the terminus of the branch line from
Lidcombe to Regent's Park at 12 miles 27 chains 90·15 links from
Sydney, and crosses the Sydney water supply pipe line, Park, Clapham,
5 and King streets, and takes an almost due west direction on the
southern side of the latter street and on the northern side of Welling-
ton-road, crosses Campbell Hill road, Miller and Fripp streets, also
Woodville-road, formerly called Dog Trap road, where the line bends
south-westerly and crosses Carrington-road, Prospect Creek, Prospect-
10 road, Lansdowne and Canley streets, and junctions with the Great
Southern railway at 17 miles 35 chains 73·27 links from Sydney, and
about a quarter of a mile on the Sydney side of the Cabramatta
station, being a total distance of 5 miles 7 chains 83·12 links, and
subject to such deviations and modifications as may be considered
15 desirable by the Constructing Authority.

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[CONFIDENTIAL.]

Regulation of Industries Bill, 1915.

SUMMARY VIEW OF THE BILL.

THE main idea of this Bill is to retain the advantages of the regulation of industries by means of boards and a court, and to offer inducements to the industrial world to settle their differences in that way, while recognising that the rights to strike and lock-out ought not to be absolutely denied. It is hoped by encouraging Trade Unions to register as Industrial Unions, and by giving to Industrial Unions alone the right to apply for awards and preference, and to strike, that all or nearly all Trade Unions may be induced to register as Industrial Unions, and to adopt, as a rule, the peaceful method of settlement, only using the weapon of the strike in extreme cases.

First, then, as to the Industrial Unions. These can be formed only from *bona fide* Trade Unions (? registered as such) and from bodies of clerical workers, even if not registered as Trade Unions. They must apply to the Minister for registration, and upon satisfying him as to certain particulars, may be registered as Industrial Unions when they become bodies corporate. There are provisions designed to discourage the formation of more Industrial Unions than one in the same industry, and as to some other details which need not now be set out.

The Industrial Union has rights given to it which are denied to simple Trade Unions or other bodies or individuals. They alone may enlarge their rules beyond the limits permitted by the Trade Union Acts, and raise funds for such purposes as the support of a newspaper or of a political party, or the purchase of shares, though, as to these three special matters, any member of the Union is permitted to refuse to contribute towards them. They alone may sue their members for contributions, fines, arrears of subscriptions, &c. Other privileges appearing in the Bill (a list of which follows) are granted to them alone, and it appears clear that, under the scheme proposed, Industrial Unions will have great advantages over mere Trade Unions.

Amongst other things, they alone, among employees, may apply to the court for the regulation of their industry by an award; and they alone are given the right to strike without any liability to punishment. The conditions under which this last privilege is given are:—

- (1) That they shall notify the court of the matters for which they intend to strike.
- (2) That they shall then wait for four weeks before entering on the strike.
- (3) That they shall also, before entering on the strike, take a secret ballot of their members in accordance with rules to be made by the court, and obtain a majority in favour of the strike.

When these things are done, the strike becomes authorised, and the employers may reply by lock-out, and acts in promotion of such strike or lock-out are protected.

To compare the positions of Industrial Unions and simple Trade Unions, the privileges which the former have but the latter have not; and the penalties for the unauthorised strike, which the former can avoid (by obtaining authorisation) but the latter cannot, are set out.

PRIVILEGES OF INDUSTRIAL UNIONS.

Sec. 15.—They may apply for regulation of the industry which they represent, or for demarcation.

Sec. 16.—They may have objects and powers other than those authorised by the Trade Union Act of 1881, so long as the latter are their *principal* objects and powers.

They may enforce the contracts which, under section 4 of that Act, cannot be enforced by Trade Unions.

They may be authorised to be registered as a Friendly Society.

Sec. 17.—They become a body corporate.

Sec. 18.—They can be sued only in the Industrial Court for damages up to £1,000. Their property can be taken only for obligations under this Act; but no member of a Union is liable individually for the corporate acts of the Union.

They may sue in any court in their registered name.

Sec. 19.—They may hold real and personal property, and generally may apply funds to any purpose authorised by their rules, subject to certain powers in the Minister to limit the amounts. In particular (but subject to each member's right to refuse to contribute) they may hold shares; publish a newspaper; and maintain Members of Parliament, or subscribe to political funds.

They may apply to the court for advice or directions.

Sec. 20.—They may settle disputes between their members with right to apply to the court.

They may sue their members in the court for any fines, penalty, subscription, or contribution up to £5.

No union not an industrial union may do this.

Sec. 21.—In certain cases the Minister may pay their legal expenses out of the Consolidated Revenue.

Sec. 22.—Their members may recover *two years'* arrears of wages, other persons only *six months*.

Sec. 23.—Their members have, by the Act itself, preference on all public works, and may be awarded preference on other works.

Sec. 24.—They may sue for compensation and damages for any members dismissed for being members of a board and a number of cognate reasons. When they have been awarded preference, they may recover entrance fees and subscription from any non-members employed in the industry.

Sec. 26.—They may make industrial agreements.

Sec. 28.—They may enter on an authorised strike.

These privileges can only be fully appreciated if Section 54, and the definition of "Industrial Matters," are carefully considered. These will show how very wide and very detailed the claims for settlement of an industry may be: thus, preference may be enforced by requiring the employer to employ only through the union or the Minister; and awards may be retrospective.

PENALTIES FOR UNAUTHORISED STRIKE.

Sec. 32.—The Union or body striking may be sued in the court for damages not exceeding £1,000.

The members may be ordered to pay contributions towards the damages awarded up to not more than £10 each.

The employer of any such member must, under a penalty of £20, pay such members' wages into court until the contribution is made up.

Sec. 12.—Industrial Unions must forward to the Minister lists of their members, which are *prima facie* evidence against such members.

Sec. 32.—The court may grant an injunction against continuing an unauthorised strike, and may *sequester* the funds of the striking body and appoint a receiver as in the Court of Equity, and no bank, &c., must then part with the funds except as the court orders.

Sec. 13.—An Industrial Union failing to pay damages may be wound up on petition, and *must* then have its registration cancelled.

Sec. 34.—(For Crown employees striking, a separate action provides that whether their strike is authorised or not they shall, *ipso facto*, lose all rights of pension, &c., to which they may be entitled, and can recover them only by order of the court, or vote of both Houses of Parliament, and other persons may be employed in their place).

It will be seen that many of the *privileges* are such as all Unions will be most anxious to possess; while the *penalties* for unauthorised strikes are severe and cannot be escaped. Even if the Union has no funds, the orders against the members stand good; and if it has funds the sequestration and the receiver should be able to follow them.

EMPLOYERS.

Employers have the right to apply to the court and have an industry regulated.

They have the right to enter upon an authorised lock-out upon giving four weeks' notice to the court of the matters for which they desire to lock-out.

If they enter upon an unauthorised lock-out they are liable to be sued for damages not exceeding £1,000 by any industrial Union aggrieved.

If their employees strike they can at once enter upon a lock-out, which will be regarded as authorised. They can sue in the court for damages when there is an unauthorised strike against them. They are liable to penalties for breaches of award up to £50, and also to pay up any short payments of award wages, as at present.

If their breach is wilful the injunction may be granted against them, the penalty for breaking which is up to £1,000.

INDUSTRIAL BOARDS.

These are to be constituted much as at present (except that the Minister will select the Chairman on his own responsibility), but only to inquire into and report upon application for awards, and upon other matters referred to them. On these reports application will be made to the court for awards, when interested persons must be heard, and application for exemption dealt with.

THE POWERS OF THE COURT.

These have been greatly enlarged. A perusal of the definitions in clause 5 of the bill, and in particular of the definition of "Industrial Matters", and clause 41 and the following clauses, particularly clause 54, will show that in regulating industries the court has powers which are very wide and can only be generally defined, and which will enable it to deal with industries in almost any way that it considers just. Such phrases as "right, fair, and honest," and "what should, in the opinion of the court, be the standard of mutual fair dealing between an average good employer and honest and competent employees" show that it is intended that the hands of the court should be untied, and that it should give effect to its sense of what is just between man and man. This is no doubt a great responsibility and a great trust, but it is questionable whether in the peculiar class of questions to be dealt with anything is to be gained by being too specific, and as the court is now to consist of three, who can sit and consult together, it may be hoped that their minds will support each other, and that what they all think will probably be what the community would approve.

The area, amount, difficulty, and in some ways the importance of the work to be done by the court are greatly extended, as will be seen by the list appended. It has all the powers of a royal commission in inquiring into any "industrial matter," of its own motion or in reference by the Minister (section 41); it can fix the quantum of work to be done, the proportionate number of workers of different sexes and ages, can alter the terms of indenture of apprenticeship, modify the terms of the Early Closing Acts, grant preference with or without provision for reporting vacancies to the Minister, and decide many other matters of great importance; in short, it is given a great mass of responsible work in many different forms, and reliance is placed mainly on its common-sense and sense of justice.

It is to make all awards, and must give all interested parties the opportunity of being heard and perhaps of calling evidence. It may, however (and will certainly have to use the power) obtain preliminary reports from industrial boards. In view of the great probability (amounting almost to certainty) that the work will be far more than three persons can get through, provision is made for remitting some of the matters to industrial magistrates, and in other cases the parties may, if they like, go to other tribunals, from the decision of which there will be an appeal to the court.

THE COURT ITSELF.

The court is increased in numbers and in dignity. There are to be a president and not more than two judges, ranking with Supreme Court Judges. It has power to distribute its work among its members in the way it considers the most convenient for all parties, subject always to an appeal to the full Industrial Court. If special matters should arise with which (as seems probable) the multiplicity of work cast upon the court will not allow it to deal, there is power to create an associate judge to deal with that particular matter only, who need not be a lawyer.

WORK OF THE COURT.

Secs. 6 and 7.—Matters arising on application for registration as an industrial union may, and positions to and such applications must, be referred to the court.

Secs. 13 and 18 (1).—The court may have to carry through the winding-up of industrial unions.

Sec. 15.—Applications for regulation of industries, or for demarcation of industries, must be made to the court.

Sec. 16.—Questions as to property, rights, and obligations of Trade Unions becoming registered as Industrial Unions may be raised before the court.

Contracts under section 4 of Trade Union Act of 1881 may be enforced before the court.

Secs. 16 and 18 (1).—The court may have to deal with Industrial Unions which have registered as Friendly Societies under the Friendly Societies' Act of 1899.

Sec. 18 (1).—Only the court can entertain proceedings against Industrial Unions or their members, as such.

Sec. 3.—Industrial Unions may sue in the court.

Sec. 19 (a).—The court may hear applications by members of the Industrial Unions to limit the amount of funds to be employed in certain objects.

Sec. 20 (1).—Members of Industrial Unions aggrieved by the conduct of the Union may apply to the court for relief.

Sec. 20 (2).—Industrial Unions may recover fines, penalties, or subscriptions of their members before the court.

Sec. 22.—Arrears of wages may be recovered before the court.

Sec. 23 (1).—Applications for preference must be made to the court.

Sec. 24.—Penalties and compensations for dismissals for improper reasons may be recovered before the court.

Sec. 26.—The court may make industrial agreements a common rule.

Applications for exemption must be made to the court.

Sec. 28.—Matters alleged as causes of strikes or lock-outs must be referred to the court.

Sec. 32.—Damages for strikes or lock-outs must be sued for before the court.

The court may grant injunctions restraining unauthorised strikes or lock-outs, or may sequester the funds of trade or industrial unions or of employers.

It may make orders to prevent multiplicity of actions.

Sec. 34 (1).—It may be called upon by the Minister to inquire into and make recommendations with regard to strikes of Crown employees, and may have to consider the removal of certain consequences to the strikers.

Sec. 41.—It has jurisdiction, and may be called upon to inquire into any industrial matter, strike, or lock-out, and report thereon to the Minister, and may exercise (for such purpose) all the powers of a Royal Commissioner. It may make general findings for the guidance of suitors and boards, and to prevent multiplicity of actions, and may make declarations from time to time as to—

the cost of living,
the standard of living,
the standard rate of wage,
the standard hours,

and other matters.

Sec. 43 (1).—It must hear appeals from its own members, from District Courts, and from magistrates, and must make rules relating thereto.

Sec. 44.—The members of the court may be called upon to sit in the Supreme Court.

Sec. 45.—It may grant writs of injunction or mandamus to any judge or officer of the court.

Sec. 46.—It has to make a great variety of rules.

Sec. 47.—It may have to travel to sit in various parts of the State.

Sec. 48.—Before finally making awards it must hear all interested persons.

Sec. 65.—It must hear applications for relief from any obligation under any award, order, or direction.

Page 41.—And consider and recommend industrial boards for industries or divisions thereof.

And consider reports from boards before making awards.

Page 47.—It must deal with applications for penalties for breaches of awards, and breaches by wilful acts or defaults.

Page 50.—It must deal with rates of wages of Crown employees.

Page 52.—And appoint honorary inspectors.

Some of the above matters may be referred to magistrates, and some (if the work is too heavy) to associate judges.

Regulation of Industries Act, 1915.

SYNOPSIS.

SECTION 1.—SHORT TITLE.

It will be observed that the familiar phrase, "*Industrial dispute*," is not used either in the title or the body of this Bill. There are two reasons for this omission.

First, although it might seem that the meaning of the word "dispute" is very plain, most of the awards of the Federal Arbitration Court have been questioned before the High Court upon the ground, among others, that there was no "dispute" between the litigating parties; and the judges have differed so widely as to what facts prove that a "dispute" exists, that it is evident the word is not easy to define.

Secondly, the true scope of industrial legislation is indicated more accurately by the phrase, "regulation of industry", because, in practice, the settlement of an industrial dispute almost always involves the regulation of the industry in which it has occurred. A dispute about wages, for example, involves a consideration of all the terms and conditions of the employment, and cannot be settled without regulating these, even perhaps to the extent of framing a "log" for every process of the industry.

For these reasons the title chosen for the Bill is "The Regulation of Industries Act, 1915".

SECTION 4.—REPEAL—SAVING CLAUSE.

This clause keeps alive all proceedings which may be pending at the date of the passing of this Act in the existing Court of Industrial Arbitration or before a Wages Board.

SECTION 5.—DEFINITION.

The effect of these definitions and the alterations which I make in the present law are noted below. Definitions to which no note is attached are the same substantially as those in the Act of 1912.

"APPRENTICES."—This term applies by this Bill to all employees who are under age, whether they are under indentures of apprenticeship or not, or are working with a parent or a stranger, if they are engaged in a trade which by custom or award requires a training of more than one year.

[In the case of *Baxter v. N.S.W. Clicker's Association*, 10 C.L.R., p. 114, it was held by the High Court that there was no provision under the Industrial Arbitration Acts of 1901 and 1908 to deal with indentured apprentices. The Act of 1912 gave this power to wages boards. The present bill extends it.]

"EMPLOYEE."—This definition has been framed in a form which is intended to extend the meaning of employee to all members of the class, whether the relationship of employer and employed exists at the moment or not. Further, it includes clerks and journalists (see definition of "journalist" on p.). Under the previous Act it has been held that it is necessary for the jurisdiction of the court that the relationship of employer and employee should exist at the date of the matter complained of.

The principle of this decision hardly applies when the object of the law is to regulate an industry, not only for the benefit of men who are at the moment engaged in it but also for the benefit of men who may come into the industry later.

The inclusion of a minor who is apprenticed to his or her parent as an employee is new. Minors working for their parents but not apprenticed to them are excluded, as they were by the Act of 1912.

"EMPLOYEES OF THE CROWN."—This is a new definition, but it explains itself.

"EMPLOYER."—The definition of employer has been omitted as unnecessary when a definition has been given of "employee."

"IMPROVER."—This definition is new. It explains itself.

"INDUSTRIAL DEMARCATION."—This definition is taken from s. 16 (6) of the Act of 1912.

“INDUSTRIAL MATTERS.”—

- (a) The extension of “employee” to include past and future “employees” has made it necessary to modify slightly the existing definition (a) under the heading of “Industrial Matters” in the Act of 1912. Also the definition has been extended in order to empower the court to grant holidays on full pay, to regulate the conditions under which employees may be housed and boarded by the employers, and to give compensation for “standing back” or “waiting time”.
- (b) The power to regulate the hours of employment has been extended to include a power to determine the hours within which men shall be employed (*e.g.*, whether they shall work or on what terms on a “night-shift”); and also a power to require the provision of protective and sanitary appliances; and the power to fix normal standards of temperature and atmospheric purity; and the power to give special remuneration for work in special places; and to regulate the relations between an apprentice and his master.
- (c) This clause gives power to regulate the employment of persons afflicted with infectious or contagious diseases, or of any other class of persons who, in the public interest, ought not to be employed (*e.g.*, alien enemies). The clause also declares that the standard to be applied by the court in dealing with these matters should be that of “mutual fair dealing between an average good employer and an honest and competent employee”.

[This is not very satisfactory; but, as has been frequently pointed out, most of the matters for the decision of the court are such that they do not admit of any general rule.]

- (f) Extends “industrial matters” to include any matter which has been made the subject of an industrial agreement, or which, in the opinion of the Minister or the court, is likely to cause disagreement or friction in an industry. [This is a new and most valuable provision.]
- (g) This follows upon the previous definition, and explains itself.
- (h&i) These provisions are inserted in order to secure to employees who are entitled to preference that their right shall not be whittled away. It provides that employers may be required to give notice to the secretary of a union of any vacancy, so that this may be filled by a member of the union, if such an one be available.

[A similar provision was contained in the Act of 1901, but was held by the court to be ultra vires. (*Trolby and Draymen*: Case 2, C.L.R., page 509). By this definition effect will be given to the intention of Parliament as expressed in 1901.]

- (j) This is a general definition to enable the court to regulate an industry.
- (k) This provision is new. The court will have power, by including “trusts” and “combines” in the category of “industrial matters”. To inquire into the working of these organisations (see section 42 (3)), and either regulate them itself or report on them to Parliament.
- (m) This general provision that “any matter which, in the opinion of the court, has been, is, or may be a cause of a strike or lock-out” is new, but necessary to the proper exercise of the court’s authority.

“INDUSTRY.”—This includes any division of an industry or group of industries.

“JOURNALIST.”—This definition is new. It is intended to include all the literary and artistic staff of a newspaper, and exclude printers and mechanics.

“LOCK-OUT.”—The only substantial alteration from the present definition is that under this Bill “lock-out” includes “instigating to and aiding and abetting in a lock-out”.

“STRIKE.”—The same observation applies, mutatis mutandis, to the definition of “strike.”

PART II.

Industrial Unions.

SECTION 6.—APPLICATION TO REGISTER AN INDUSTRIAL UNION.

Any *bonâ fide* trade union of employees and any combination of persons employed as clerks or journalists may apply to the Minister to be registered as an industrial union. The rules of the proposed industrial union must accompany the application, and if there are no rules, or if these are insufficient, those in Table A in the Schedule of the Bill shall be the rules of the industrial union unless any of them are expressly or impliedly excluded. The Minister must give public notice of the application and any person or union interested may oppose it.

SECTION 7.—WHAT MUST BE PROVED BEFORE APPLICATION IS GRANTED.

Before the Minister can grant an application for registration as an industrial union, he must be satisfied of (1) the authority and *bona fides* of the applicants, (2) that the application is made on behalf only of persons who would be qualified to be members of the industrial union, (3) that the applicants cannot in the public interest, or for other good reason should not be required to join any industrial union which is already registered, and (4) that the registration of the applicants will not unjustly affect any other industrial union.

[By section 8 of the Act of 1912 registration may be refused if it appears that the applicants "might conveniently belong" to a union, which has been already registered. This has been interpreted by the Court to mean "conveniently" from the point of view of the administration of the Act. The present section is intended to enlarge the meaning of the word "conveniently" by taking into account the interest of unions which are already registered. It is not desirable to multiply unions.]

SECTION 8.—RULES OF A UNION.

Table A in Schedule I to the Bill follows the precedent set by the Companies Acts and provides a model set of rules which any union may adopt with or without modifications. The rules of both industrial and trade unions at the present time are drawn very loosely.

SECTION 9.—MINISTER MAY REFER TO COURT.

Since the matters arising under the last three sections will often involve questions of law the Minister is empowered to refer any of them to the Court for report to himself or for determination.

SECTIONS 10 AND 11.—SAVING OF EXISTING REGISTRATION—POWER TO AMEND SCHEDULE A.

These sections explain themselves, and call for no remark.

SECTION 12.—LIST OF MEMBERS.

It has been difficult sometimes to ascertain who are members of a union. This section provides that an industrial union shall forward to the Minister on such dates as may be prescribed the names and addresses of all its members, and that this shall be *prima facie* evidence against those named in the list that they were members of the union at that date. This provision will assist secretaries of a union in securing that the members of the union keep themselves financial. A person whose name does not appear upon the list would, in the absence of evidence that he was omitted in error, not have the right to the benefits of an award.

SECTION 13.—WINDING UP OF AN INDUSTRIAL UNION.

Many difficulties have arisen from the cancellation of the registration of industrial unions; nor is it easy to foresee under what circumstances this severe penalty should be imposed; while at the same time it is not expedient to remove any body of employees from the control of the court by cancelling the registration of their union. Accordingly this Bill makes no provision for cancelling the registration of a union by an order of the court. If, however, a creditor of the union obtains an order for damages against a union under Section 31 and is unable to recover these, he is empowered by this section to wind up the union as if it were a company under the Companies Act; and, upon the making of such winding-up order the Minister is required to cancel the registration of the union.

SECTION 14.—CHANGE OF NAME.

The Minister may permit a union to change its name.

SECTION 15 (1).

In the case of the *London and North Western Railway Co. v. London and North Western Railway Co.*, which was heard before Mr. Justice Heydon in 1914, it was held that a trade or industrial union had no power to invest its funds for the furtherance of any purpose which was not expressly authorised by the Trade Union Act of 1881 or the Industrial Arbitration Act of 1912. There can be no question as to the correctness of this decision, both on principle and precedent. Similar decisions have been given from time to time by the English courts.

In the particular case in question, the application of the funds of the union, which was held to be illegal although it was in accordance with the rules of the union, was a contribution to the "Labour Daily."

Since this decision has been given, the registrar of trade unions has called upon many trade unions to show cause why their registration as a trade union should not be cancelled, because they purport by their rules to take powers which are not conferred by the Trade Union Act. Again, there can be no question but that this is a legal ground for cancellation.

The inconvenience of this rule was so great that an Act was passed in England in 1913 (Trade Union Act of 1913, s. 1 (1)), providing that the fact that a trade union took, by its rules, power and objects beyond that which were conferred by the Trade Union Act should not invalidate its registration or "provided that the objects and powers authorised and conferred by the said Act were the principal objects of the said union".

Section 15, subsection (1), applies this legislation to industrial unions as well as to trade unions.

SECTION 15 (2).

Subsection (2) of section 15 now validates all acts done in good faith, which before the passing of this Bill were invalid because they were done in pursuance of powers which were not conferred by the Trade Union Act of 1881 or the Industrial Arbitration Act of 1914, provided that the main objects and powers of the union were authorised by either of these Acts.

SECTION 15 (3).

Subsection (3) transfers to the court the power to cancel the registration of a trade union, which is now exercised by the Registrar of Trade Unions. It is an anomaly that the Trade Union Act should be administered by the Chief Secretary and not by the Minister for Labour and Industry.

SECTION 15 (4).

This section vests the property of a trade union which becomes an industrial union in the latter, and provides that an industrial union and the members may bring any of the actions which are prohibited at present by section 4 of the Trade Union Act.

This section is in the following terms :—

4. Nothing in this Act shall enable any Court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely—

- (1) Any agreement between members of a trade union as such concerning the condition on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ, or be employed.
- (2) Any agreement for the payment by any person of any subscription or penalty to a trade union.
- (3) Any agreement for the application of the funds of a trade union—
 - (a) to provide benefits to members ; or
 - (b) to furnish contributions to any employer or workman not a member of such trade union in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union ; or
 - (c) to discharge any fine imposed upon any person by sentence of a Court of Justice ; or
- (4) any agreement made between one trade union and another ; or
- (5) any bond to secure the performance of any of the abovementioned agreements.

But nothing in this section shall be deemed to constitute any of the abovementioned agreements unlawful.

SECTION 15 (5).

This subsection provides that in so far as a trade union is a benefit society its funds which are set apart for the payment of benefits may be administered under the Friendly Societies Act. "Strike pay" is not a "benefit" under this section.

SECTION 15 (6).

This subsection prescribes the liability of trustees and officials of a trade union to be prosecuted for embezzlement of trade union funds.

SECTION 16-27.—PRIVILEGES OF INDUSTRIAL UNIONS.

A trade union gains for itself and its members the following advantages by registering as an industrial union :—

SECTION 16.

Firstly, it becomes a body corporate with perpetual succession and may apply for the regulation of any industry in respect of which it is registered or of any other industry for the purpose of determining any question of industrial demarcation.

SECTION 17.

Secondly, it is protected against proceedings in any court except the Industrial Court, and its property can be levied upon only by the process of this court and in respect of obligations imposed by this Bill.

[These provisions were in the Act of 1901.]

SECTION 18.

Thirdly, an industrial union may hold real and personal property and generally apply its funds to any lawful purpose authorised by its rules. In particular, it may publish or take shares in a newspaper, maintain members of Parliament, or subscribe to party funds. The court, however, may on the application of any member limit the amount which a union may spend upon purposes which are not specifically authorised by this Bill.

Fourthly, the union may apply to the court for directions and advice in any matter of corporate concern or involving the interpretation of its rule.

SECTION 19.

Fifthly, an industrial union may sue its members to recover any fine, penalty, contribution, or subscription. No trade union, which is not an industrial union, has the privilege.

SECTION 20.

Sixthly, the legal expenses of an industrial union, or a member thereof, may be paid out of the consolidated revenue if the court is of opinion that it is in the public interest that such union or member should be a party to the proceedings.

SECTION 21.

Seventhly, members of an industrial union can recover two years arrears of wages. Other persons can only recover six months arrears.

SECTION 22.

Eightly, members of industrial unions have by the Bill preference on all public works, and the court is required to grant preference in all other industries, provided that the union is not involved in any dispute as to industrial demarcation. [It is expected that this provision will lead to the voluntary settlement of these disputes.] And provided that the rules of the union allow any qualified person to become a member on payment of reasonable fees and subscriptions. The court also has power to suspend the right to preference in certain cases named, which, in effect, mean that it may be suspended when in practice it cannot be exercised so as to do justice to all parties.

SECTION 23 (1) and (2).

Ninthly, an industrial union, or any one of its members, may sue for compensation and damages for dismissal on account of exercising the powers and privileges conferred by this Act, such as claiming the enforcement of an award, attending a meeting of the union which, in the opinion of the court, he was acting reasonably in attending, &c.

SECTION 23 (3).

Tenthly, an industrial union which is entitled to preference is given power to collect from all other employees in the industry, who have not joined the union, the amount they would have paid for subscription and entrance fee.

[The object of this clause is to prevent persons who will not trouble to enforce their rights enjoying free of charge the benefits which the efforts of the union have obtained for them.

PART III.**"Industrial Agreements."**

SECTION 24.—POWER TO MAKE INDUSTRIAL AGREEMENTS.

An Industrial Agreement may be made between two Industrial Unions or between an Industrial Union and an employer. It has to be approved by the Court before it becomes binding.

SECTION 25.—INDUSTRIAL AGREEMENT MAY BE MADE A COMMON RULE.

The Court may make any term of an Industrial Agreement a Common Rule, and may exercise the power at any time, and whether as a term of an award or not.

The Court may make the order with such limitations, conditions, and exceptions as it thinks fair, and any employer or union may apply at any time to be exempt from its operation.

SECTION 26.—DURATION AND RESCISSION OF INDUSTRIAL AGREEMENT.

An Industrial Agreement may be made for any period less than three years, and may be continued after its expiry subject to a month's notice by any party to it of his intention to rescind it.

PART IV.**Strikes and Lock-outs.**

SECTION 27 (1).—STRIKES AND LOCK-OUTS.

Strikes and lock-outs are either—

- (1) Authorised ; or
- (2) Not authorised.

SECTION 27 (2).—STRIKES AND LOCK-OUTS.

Only an Industrial Union can engage in an "authorised" strike.

SECTION 27 (3).—STRIKES AND LOCK-OUTS.

In order that a strike may be "authorised," the following provision of the Act for securing a period for reflection and investigation must be observed, namely :—

- (a) All matters in difference must be referred to the court.
- (b) Four weeks must have elapsed after such reference ; and
- (c) a secret ballot, taken by the Court or the Minister, must have shown that a majority of the members of the union approve of striking.
- (d) The Minister may also take a secret ballot after an authorised strike has been begun upon the question of its continuance. If a majority of the members of the union voted against continuing the strike, the strike would cease to be "authorised."

SECTION 27 (4).—AUTHORISED LOCK-OUT.

A lock-out which occurs after a delay of one month after a reference by the employer to the court of the matters in dispute is an "unauthorised" lock-out."

SECTION 27 (5).—AUTHORISED LOCK-OUT.

Any strike, which occurs after, and during the continuance of a lock-out in the same industry, whether such lock-out is "authorised" or not, and whether the provisions of subsection (3) relating to "authorised" strikes have been complied with or not, will become an "authorised" strike. Similarly any lock-out which occurs after and during the continuance of any strike is an "authorised" lock-out.

SECTION 28.—EXEMPTION FROM LIABILITY FOR AUTHORISED STRIKE OR LOCK-OUT.

No union, or member of a union, nor any employer is liable, criminally or civilly, for engaging in an "authorised" strike or lock-out.

SECTION 29 (1 and 2).—AMENDMENT LAW OF CONSPIRACY.

No agreement or combination to act in furtherance of an "authorised" strike or lock-out shall be indictable or actionable if such act, if committed by one person not acting in combination with others would not be indictable or actionable.

SECTION 29 (3).

No liability attaches to any union or employer merely upon the ground that a strike or lock-out interferes with the right of other persons to dispose of their capital or labour as they please, provided that such interference is in furtherance of an "authorised" strike or lock-out.

SECTION 30.

Saving the liability of a member of a trade union for malversation of funds.

Unauthorised Strikes—Lock-outs.

SECTION 31 (1).—LIABILITIES FOR UNAUTHORISED STRIKES.

A union which engages in an "unauthorised" strike may be sued in the court for £1,000 damages by any person injured, and any industrial union may sue an employer for the same amount of damage if the latter has caused injury by an unauthorised lock-out.

SECTION 31 (2).

In any proceedings to recover damages for an authorised strike the union is to be held responsible for the acts of its members, but the members individually have no liability except this.

SECTION 31 (3).

They may be compelled by the court to contribute to the payment of any damages awarded up to £5 a head, which sum may be made a charge upon their future earnings.

SECTION 31 (4).

The court can in any proceeding appoint a representative plaintiff or defendant in order to avoid the joinder of all persons injured.

SECTION 31 (5).

All parties may be joined in any proceeding under this section.

SECTION 32.—WINDING-UP OF INDUSTRIAL UNION.

If a union fail to pay the damages awarded against it, the person entitled to them may present a winding-up petition against it in the Court of Equity as though it were a company under the Companies Act of 1899. If a winding-up order is made the registration of the union is *ipso facto* cancelled.

SECTION 33.—COURT MAY SEQUESTER FUNDS.

The Court may grant an injunction against all persons or unions engaging in an "unauthorised" strike or lock-out, and may also sequester his or its funds, in order to prevent the distribution of strike-pay.

SECTION 34.—COURT TO HOLD INQUIRIES.

Upon the occurrence of any strike or lock-out the Minister must direct the court to hold an inquiry into its causes and report to him, and particularly to report whether the strike or lock-out is "authorised" and whether employees of the Crown are concerned.

SECTION 35.—SUSPENSION OF PRIVILEGES.

If the court report that a union is engaged in an "unauthorised" strike, the members of the union at once lose their right of preference, and the benefits of any award in their favour.

If the court reported that employees of the union are engaged in the strike, whether this be an "authorised" strike or not, they at once lose all rights and privileges conferred on them either by sections 22 and 82 of the Bill or by the Public Service Act; these can be restored only by the court or by a resolution of both Houses.

[This section is based on the idea that a strike of public servants is an offence of the same kind as mutiny.]

PART V.

The Industrial Court.

SECTION 37.—CONSTITUTION OF COURT.

The court consists of a president and two judges. The president must have the qualifications of a Supreme Court judge, the two judges those at least of a District Court judge. On their appointment the president and two judges become to all intents and purposes judges of the Supreme Court.

SECTION 38.—POWER TO APPOINT ACTING JUDGES.

The Governor may appoint an acting president or judge under the same conditions as an acting judge of the Supreme Court

SECTION 39.—ASSOCIATE JUDGE.

The Governor is empowered also to appoint an associate judge, who need not be a lawyer, to deal with any industrial matter specially remitted to him by the court.

SECTION 40.—THE JUDGE OF THE ARBITRATION COURT TO BE FIRST PRESIDENT.

It is provided that the present judge of the Arbitration Court shall be the first president of the new court and that for the purpose of calculating his pension he shall be deemed to have been appointed a Supreme Court judge on and from the date of his appointment as judge of the Arbitration Court.

Jurisdiction of Court.

SECTION 42.—JURISDICTION OF COURT.

In the exercise of its jurisdiction under the Act the court has all the powers of the Supreme Court in addition to those which are conferred by this Bill.

It may hear and determine any industrial matter, and make awards; may fix and regulate the hours of labour, wages, piece-work, and the relations of masters and apprentices.

It may direct, in order to secure that the right to preference be effective, that notice of vacancies in an industry be given to the Minister or the secretary of an industrial union, and that employees be engaged either through the Minister or the union secretary.

It may deal with early closing and half-holidays.

Also it may sit as a Royal Commission to hold inquiries into any industrial matter.

SECTIONS 43 AND 44.—POWERS AS TO PROCEDURE.

These sections give the court full power to regulate its own procedure.

SECTION 45.—POWER TO GIVE GENERAL RULINGS.

In order to prevent a multiplicity of inquiries into the same matter, the court is empowered to make general declarations, which shall be binding upon all boards on any matter of universal interest, such as the cost or standard of living, minimum wages for men and women, the standard hours of labour, &c.

The Bill goes far towards introducing a general eight-hours day by providing that the working hours in any industry which at the date of the passing of this Bill have been fixed by custom or award at 48 hours a week shall not be increased except by Act of Parliament.

An eight hour day is also guaranteed to employees of the Crown.

SECTION 46.—RIGHT OF APPEAL.

An appeal, by way of re-hearing, is allowed to the court from any order of a single judge or from a magistrate or judge of a District Court exercising jurisdiction under this Bill.

The decisions of the court are to be final.

SECTION 47.—JUDGES MAY SIT IN SUPREME COURT ON APPLICATION FOR A PROHIBITION.

The judges of the court are empowered to sit with any judge of the Supreme Court who is hearing an application to question any proceedings of the Industrial Court on the ground of excess of jurisdiction. They may not however take part in the decision, although they may deliver their opinion.

SECTION 48.—CONTROL OF COURT OVER JUDGES AND OFFICERS.

The court may grant an injunction or mandamus against or to any judge or person administering this Bill.

The Regulation of Industries.

SECTIONS 49-51.—POWER TO REGULATE INDUSTRIES.

These sections empower the court to regulate an industry by an award, which is in the nature of a legislative Act, and therefore is made binding on all persons, including the Crown, who are engaged in the industry in question or designated in the award.

Any person affected by an award can at any time apply to the court for directions or relief.

SECTION 52.—INITIATION OF PROCEEDINGS.

This is a procedure section, which calls for no remark.

SECTION 53.—POWER TO REMIT.

The court may remit to a Wages Board for inquiry and report any matter on which it desires information for the purpose of making an award.

Also it may refer to a magistrate proceedings by a union to enforce penalties and recover moneys from its members.

SECTION 54.—POWER TO AWARD COSTS.

Gives a general power to the court to order the payment of costs.

SECTION 55.—RIGHT TO INSPECT.

This section is taken from the Act of 1901, and gives the court the fullest power to inspect working places.

SECTIONS 56 AND 57.

These are procedure sections, which call for no remark.

SECTION 58.—CHARITABLE INSTITUTIONS.

The Court is empowered in making an award to deal in a special fashion with charitable institutions, which give allowances in addition to or in lieu of wages to their inmates.

[This section is taken from section 24 (2) of the Act of 1912.]

SECTION 59.—SLOW AND AGED WORKERS.

The court is empowered to make special terms for slow or aged workers.

PART VI.

Industrial Boards.

There are no substantial differences between this Part of the Bill and the provisions of the Act of 1912 relating to Wages Boards except such as follow necessarily from the provisions of the Bill that all awards shall be made by the court, and the functions of the board be confined to inquiry, report, and recommendation.

PARTS VII, VIII, and IX.

Breaches of Awards, Conciliation Committee, Special Commission, and General and Supplemental.

These sections in Parts VII to IX make no substantial alteration in the present law.

10.
[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1917.

A BILL

To provide for the regulation of business and industries; to establish a Board of Trade and subsidiary industrial boards; to provide for the organisation of the labour market by the establishment of State Labour Exchanges; to provide for the licensing and regulation of private employment agencies; to provide a system of State Insurance against unemployment; to provide for the appointment of Conciliation Committees; to amend the Trade Union Act, 1881; to repeal the Industrial Arbitration Act, 1912, and the Industrial Arbitration (Amendment) Act, 1916; 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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Regulation of Industries Act, 1917."

2. This Act shall bind the Crown and shall commence on and from a date to be proclaimed by the Governor in the Gazette.

3. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY.

PART II.—THE BOARD OF TRADE AND JUDICIAL ASSESSORS OF THE BOARD OF TRADE.

PART III.—THE POWERS OF INVESTIGATION OF THE BOARD OF TRADE.

PART IV.—THE LEGISLATIVE POWERS OF BOARD OF TRADE.

PART V.—INDUSTRIAL BOARDS.

PART VI.—UNION CONSTITUTIONS, AND OTHER AGREEMENTS.

PART VII.—STRIKES.

PART VIII.—THE ORGANISATION OF THE LABOUR MARKET.

PART IX.—PROTECTION OF TRADE AND CONTROL OF MONOPOLIES.

PART X.—INSURANCE AGAINST UNEMPLOYMENT.

PART XI.—BREACHES OF AWARDS AND OTHER OFFENCES.

PART XII.—GENERAL AND SUPPLEMENTAL.

4. (1) The Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1916, and section seventeen of the Apprentices Act of 1901, are repealed. (2)

(2) All awards, orders, and industrial agreements made under authority of the Acts hereby repealed and in force at the commencement of this Act shall, until rescinded or amended under this Act, continue in force for the respective periods fixed by such awards, orders, or industrial agreements, and shall be deemed to have been made under this Act.

(3) All summonses issued at such commencement under the Industrial Arbitration Act of 1912, and returnable before the Court of Industrial Arbitration, the industrial registrar, or an industrial magistrate, under the said Act, shall continue in force, but shall be returnable before, and shall be heard and determined by or by direction of the Court of the judicial assessors of the Board of Trade constituted by this Act. For the purpose of carrying out the provisions of of this and the preceding subsection, the enactments of the repealed Acts and the rules made thereunder shall, if it be so directed by the Court of the judicial assessors of the Board of Trade, continue in force and shall, *mutatis mutandis*, apply to the hearing and determination of any such matter, and to the enforcement of any order made in the premises.

All documents relating to any such matter or proceedings, and filed or deposited with the Court of Industrial Arbitration, the industrial registrar, or an industrial magistrate, appointed under the Industrial Arbitration Act, 1912, or the Industrial Arbitration (Amendment) Act, 1916, shall be handed over to the Board of Trade under this Act, and shall be deemed to have been filed or deposited in accordance with the provisions of this Act.

(4) All regulations made under the Acts hereby repealed and in force at the commencement of this Act shall, if it be so directed by the Board of Trade, *mutatis mutandis*, apply as if made under this Act, until the same be repealed or amended by rules made under this Act.

(5) Any proceedings pending before an industrial board constituted under the Industrial Arbitration Act, 1912, or the Industrial Arbitration (Amendment) Act, 1916,

1916, at the commencement of this Act shall, if the Board of Trade so direct, be continued as if this Act had not passed: Provided that such industrial board shall not make an award but shall refer its findings and recommendations to the Board of Trade, and the Board of Trade may from time to time refer back any such finding and recommendation to the industrial board for further report, and the Board of Trade may make any award in regard to the industry concerned.

(6) All rights of appeal under the Acts hereby repealed shall be preserved, and may be exercised before the Board of Trade under this Act, and, if the Court of the judicial assessors of such committee so direct, subject to the terms and conditions prescribed by the repealed Acts, as if these Acts continued in force.

5. In this Act, unless the context otherwise indicates—

“Award” means award under this Act, or an award in force at the commencement of this Act under the repealed Acts, and includes a variation of any such award.

“Board of Trade” or “Board” means the New South Wales Board of Trade hereby constituted.

“Business” means any enterprise dependent upon an industry, and includes an enterprise not so dependent which is or may be in competition with an enterprise dependent upon an industry.

“Court” means Court of the judicial assessors of the Board of Trade hereby constituted.

“Court of Industrial Arbitration” means Court of Industrial Arbitration established by the Industrial Arbitration Act, 1912, and the Industrial Arbitration (Amendment) Act, 1916, hereby repealed.

“Industrial agreement” means an agreement made between a trade union and an employer or employers as such, or between two or more trade unions, or between employers and employees or employers and employees as such, and registered with the Board of Trade in the manner prescribed.

“Industrial

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- “Industrial magistrate” means industrial magistrate appointed under this Act.
- “Industry” means craft, trade, profession, occupation, or calling in which persons of either sex are employed for hire or reward, and includes any division of an industry or combination, arrangement, or grouping of industries.
- “Magistrate” means industrial, stipendiary, or police magistrate.
- “Members of a board” and “members of a conciliation committee” include the chairman of the board and of the committee respectively.
- “Minimum wage” means the lowest rates of wage necessary, in the opinion of the Board of Trade, to enable, on the one hand, an adult male employee to maintain himself and his wife and a family of three children in becoming relation to the average standard of living of the community as a whole, and on the other hand an adult female employee to support herself in such relation.
- “Minister” means the Minister for Labour and Industry or other Minister of the Crown administering this Act.
- “Prescribed” means prescribed by this Act, or by regulations made thereunder.
- “Repealed Acts” means the Acts repealed by this Act.
- “Trade Union” or “Union” means trade union of employees registered under the Trade Union Act, 1881, or any Act passed in substitution for or amendment of such Act, and includes a branch so registered.
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PART II.

THE BOARD OF TRADE AND THE JUDICIAL ASSESSORS
OF THE BOARD OF TRADE.

6. (1) There is hereby constituted a body corporate to be known as "The New South Wales Board of Trade," and having perpetual succession and a common seal.

(2) The Board of Trade shall comprise a president who shall be the Minister, and two commissioners.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the incorporation and the common seal of the Board of Trade, and shall presume that such seal was properly affixed to any deed, instrument, or writing upon which it may appear, without any other or further proof of the making of such deed, instrument, or writing.

7. The Governor shall, as soon as conveniently practicable after the passing of this Act, appoint the Commissioners of the Board of Trade, who shall each be paid an annual salary of twelve hundred and fifty pounds and such allowances for travelling as the Governor may direct, and such salaries and the said allowances upon direction as aforesaid shall become a charge upon the Consolidated Revenue.

8. Any commissioner of the said Board of Trade may be removed from his office by the Governor on an address by both Houses of Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity.

The Governor may suspend any commissioner from office for misbehaviour or incapacity. The Minister shall, within seven days after the suspension, if Parliament is then sitting, or if Parliament is not then sitting, within seven days after the next meeting of Parliament, cause to be laid before both Houses of Parliament a full statement of the grounds of suspension.

A commissioner who has been suspended shall be restored to office unless each House of Parliament within forty days after the statement has been laid before

before it, and in the same session, passes an address praying for his removal on the grounds of proved misbehaviour or incapacity.

9. On the happening of any vacancy in the office of Commissioner of the Board of Trade, the Governor shall appoint a person to the vacant office.

In the case of the illness, suspension, or absence of any such commissioner, the Governor may appoint a person to act as a deputy commissioner during such illness, suspension, or absence, and the deputy shall whilst so acting have all the powers and perform all the duties of commissioner.

10. (1) The Governor shall appoint persons qualified for appointment as Judges of the Supreme Court to be judicial assessors of the Board of Trade, provided that such judicial assessors shall not at any time exceed four in number. Every judicial assessor shall have the rank, status, salary, powers and jurisdiction of puisne judges of the Supreme Court in addition to the powers and jurisdiction herein conferred upon it.

(2) A judicial assessor of the Board of Trade may by delegation made specially or as prescribed exercise any of the powers of inquiry and arbitration of the Board of Trade in any connection. All applications for the regulation of a business or industry shall in the first instance be heard and determined by one or more of the judicial assessors of the Board of Trade.

(3) A judicial assessor of the Board of Trade may exercise the powers, jurisdiction, and functions of an industrial board or a special board for demarcation purposes in respect of any industry or industries whether a board or boards shall or shall not have been constituted for such industry or industries or purposes.

11. The Governor may, upon a report by the Board of Trade that a judicial assessor is prevented by any cause from attending to his duties as judicial assessor, or that a judicial assessor or judicial assessors of the Board of Trade is, or are, unable to cope promptly and expeditiously with the matters in the Board of Trade's lists or with the demand for judicial services made upon the Board of Trade, or is, or are, from considerations of
natural

natural justice averse to adjudicating upon any specific matter, appoint a deputy judicial assessor or judicial assessors to act temporarily as a judicial assessor or judicial assessors of the Board of Trade from amongst persons qualified to be judicial assessors of the Board of Trade, and such person or persons shall, while so acting, have all the jurisdiction and powers of a judicial assessor of the Board of Trade.

12. The present members of the Court of Industrial Arbitration shall be appointed by the Governor as the first judicial assessors of the Board of Trade.

13. (1) The Board of Trade shall have, in addition to the powers and duties hereinafter more particularly described, general powers and duties as follows :—

- (a) To administer the industrial and labour laws of the State.
- (b) To acquire and disseminate knowledge on all matters connected with the industrial occupations of the people with a view to improving the relations between employers and workers, and to combat the evils of unemployment.
- (c) To collect and publish reliable information relating to or affecting the industrial conditions of the people.
- (d) To record and register all indentures or other contracts of apprenticeship, and to protect the contracts and interests of apprentices and of workers of minor age who are learners, and to insure the attendance of apprentices and learners in manner prescribed at technical or trade schools.

(2) The Board of Trade shall have full power by order or by general rule to distribute its business among the commissioners of such board and to delegate all or any of its powers, jurisdictions, and functions to one or more of the members of the Board or to any one or more of the judicial assessors of the Board.

14. A commissioner of the Board of Trade shall not be in the employment of or hold any official relation to any person engaged in any industry.

A commissioner shall not exercise any power conferred by this Act upon the Board of Trade in any matter in which he is directly or indirectly interested.

The commissioners shall devote the whole of their time to the performance of their duties, and no commissioner shall accept or hold any paid employment outside the duties of his office as a commissioner, or be a director of a company.

PART III.

THE POWERS OF INVESTIGATION OF THE BOARD
OF TRADE.

15. (1) The Board of Trade shall be charged with the duty of investigating from time to time all matters which in the opinion of such board ought, in the public interest, to be investigated affecting—

- (a) the state insurance of employees and the compensation of employees for loss or damage caused to them by unemployment, sickness, or accidents;
- (b) the standard of life of the employees in any industry, and any reasons which may exist for advancing such standard of life;
- (c) the regulation of industries, including the regulation of the relations of employers and employees in any particular, and of the conditions of competition between employers, or between employers and persons who are not employers in the conduct of any industry or business within the State, and any reason which may exist for the equalisation of conditions of competition between employers, or between employers and persons who are not employers engaged in the conduct of any industry or business within the State;
- (d) the cost of living in the State;

(e)

- (e) the question of a minimum wage and the relation which such minimum should bear to both the cost of living and the standard of life in the community;
- (f) the question of the standard hours of work, and the relation which such hours of work should bear to the minimum rate of wage and the standard of life in the community;
- (g) the existence of sweating in any industry;
- (h) the productivity of industries and employees in industries, and the effect or probable effect of the regulation of the conditions of industries upon such productivity.
- (i) the industrial efficiency of the community;
- (j) the profits of trade and manufacture;
- (k) wages, and social and industrial conditions;
- (l) the organisation of the labour market and opportunities of employment, and the social problem of unemployment;

and shall report the result of its investigations to Parliament, specifying particularly for the consideration of Parliament any matter to be deduced therefrom which, in its opinion, ought to be applied as a matter of principle in the legislative regulation of industries and the protection of employers and employees.

(2) The Board of Trade may, as prescribed, collect annually statistics in relation to all or any of the following matters :—

- (a) Vital, social, and industrial matters.
- (b) Labour employment and unemployment.
- (c) Specific industries.
- (d) Any other prescribed matters.

(3) The Board of Trade shall, in investigating any matters for the purposes of this Act, have all the powers of a Royal Commission under the Royal Commissioners Evidence Act, 1901, or any Act passed in substitution for or amendment of that Act.

(4) For the purpose of enabling the statistics referred to in this Part of this Act to be collected, all prescribed persons shall, to the best of their knowledge, when required by the Board of Trade so to do, fill up
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and supply, in accordance with the instructions contained in or accompanying the prescribed form, the particulars specified in that form. Every person shall, to the best of his knowledge and belief, answer all questions asked him by the Board of Trade, or an officer authorised in writing by the Board of Trade, necessary to obtain any information required for the purposes of any statistics authorised by this Act to be collected.

PART IV.

THE LEGISLATIVE AND JUDICIAL POWERS OF THE
BOARD OF TRADE.

16. (1) The Board of Trade shall, subject as aforesaid, upon the application of a trade union or an employer or employers employing not less than twenty employees in a business or industry, or of the Minister, made as prescribed, consider any claim or claims for the regulation of a business or an industry in any particular which may affect employers or employees as such or the relations between employers and employees as classes in the community or which may be in dispute between employers and employers or between trade unions and trade unions and shall, for the purpose of dealing with such claim or claims, have power upon and to the effect of the recommendation of any of the judicial assessors of the Board of Trade to make laws in regulation of any such business or industry and generally in relation to apprenticeships, labour, employment, and unemployment as fully and effectually as Parliament itself might do (subject to the provision for review of such laws hereinafter contained) without restriction to the matters raised in such claim or claims, but subject to the provision for review of such laws hereinafter contained for the purpose of ensuring that so far as considerations of the industrial efficiency
of

of the community permit the standard of life of employees in the community shall be advanced and for the further purpose of defining and declaring the relative rights and mutual duties of employers and owners of businesses and employees according to what, in the opinion of the Court, should be the standard of fair dealing between an average good employer and an honest and competent employee, or competitors in trade.

(2) The laws so made by the Board of Trade shall be called Awards of the Board of Trade and shall commence to operate only upon publication in the Government Gazette. The awards of the Board of Trade shall, subject to the rights of appeal conferred by this Act and to such conditions and exemptions as the Board of Trade may declare, be binding on all persons, including the Crown, engaged in the businesses or industries designated therein and for the period specified therein or until the awards be varied or rescinded by the Board of Trade.

(3) Before making an award the Board of Trade shall be satisfied that an opportunity has been given in the prescribed manner to any person or trades union interested to be heard by one or more of the judicial assessors of the Board of Trade, and any person or trade union who, or which, is affected by any award of the Board of Trade may, whether such person or union was or was not a party to the proceedings in which the award was made, apply at any time to a judicial assessor of the Board of Trade to be relieved from any obligation imposed by such award.

(4) Every award of the Board of Trade shall, within fourteen days of its publication in the Gazette, if Parliament be sitting, be forthwith laid upon the table of each House, or if Parliament be not sitting, be laid upon the table of each House within fourteen days of the commencement of the next session of Parliament.

(5) Parliament may, by resolutions of each House, annul, restrict, or refuse any repeal of an existing law involved in or by an award, and may denounce and expunge any matter of principle contained in any award,

award, or may bring any award into agreement with any matter of principle which ought, in the opinion of Parliament, to be recognised by, or introduced into such award, or may otherwise give to the Board of Trade in respect of any award such directions in matters of principle as it may deem expedient.

17. Upon its own motion or upon the application of an employer or employers or of any trade union, the Board of Trade may, if the judicial assessors of the Board of Trade or one of them so recommend, modify into one award, subject to such amendments as it may deem it expedient to make, all awards binding or affecting any employer, class, or section of a class of employers in any business or industry, or the members of a trade union employed by the same employer or class or section of employers when such employer or class or section of employers, or such members, is or are, subject to more than one award.

18. (1) The judicial assessors of the Board of Trade shall have all the powers of judges of the Supreme Court for the purposes of this Act, and shall hear and determine according to equity and good conscience all questions arising for their determination under it.

(2) The judicial assessors of the Board of Trade shall have jurisdiction to hear and determine any claims for the enforcement of the rights and liabilities of trade unions and the members of trade unions as such applications to enforce the penalties imposed by this Act, and their determinations thereupon shall have force and effect as judgments, orders, or decrees of the Supreme Court in its common law and equitable jurisdictions, and shall be so recorded by the Prothonotary of the Supreme Court or Master in Equity as the case may require. Such determinations shall not be appealable.

(3) The jurisdiction of the judicial assessors of the Board of Trade may, subject to the provisions of this Act and of the rules made thereunder, be exercised in court or in chambers by one or more of such assessors as prescribed.

19.

19. The judicial assessors of the Board of Trade may at any time remit—

- (1) to an industrial board for inquiry and report, with or without directions, any matter included in any claim, or which the Board of Trade or such judicial assessors consider it is desirable to have included in any claim for investigation, or upon which the said judicial assessors desire information for the purpose of recommending any law; and the judicial assessors shall inform their conscience by the result of such inquiry, but shall not be compelled to accept any conclusion arrived at or recommendations made by such industrial board, and all persons interested in such conclusions and recommendations shall be entitled to be heard before the judicial assessors. Any remission or reference made as aforesaid may be withdrawn by the judicial assessors at any time, and whether the industrial board has concluded its work or otherwise;
- (2) to a magistrate any proceedings for the recovery or enforcement of penalties incurred under this Act or for the recovery by a trade union of fines, levies, subscriptions, or contributions from its members, or of claims under section , subsection , or claims by a trade union for contributions from another trade union, to be heard by him subject to the provisions of this Act as to appeal, and such magistrate is hereby authorised to hear the same in the exercise of his summary jurisdiction.

20. The judicial assessors of the Board of Trade shall have jurisdiction to award costs in all matters brought before their board in judicial capacities, including matters dismissed for want of jurisdiction; but no costs shall be allowed of any counsel, solicitor, or agent, unless, in the opinion of the Board of Trade, it is or was in the interest of justice that counsel, solicitor, or agent should be or should have been heard.

21.

21. (1) Every magistrate acting under the powers conferred by this Act shall report to the Board of Trade within one week of the time of the pronouncement of any judgment or order delivered or made by him, the reasons for such judgment or order, and an appeal shall lie to the judicial assessors of the Board of Trade from any decision or finding of a magistrate acting under the powers conferred by this Act.

(2) Every appeal under this Act shall be by way of re-hearing, and the judicial assessors of the Board of Trade may affirm, revise, or modify the judgment, order, or award appealed against, and may give such judgment and direction, and make such order and award as ought to have been given or made in the first instance, and may remit any matter arising out of or involved in the case to the member or magistrate concerned with or without directions, and whether for report to the Board of Trade or for determination.

22. The judicial assessors of the Board of Trade may—

- (a) at any time rescind or vary their own recommendations, determinations, and judgments, and re-open any reference or proceedings;
- (b) proceed and act in any proceedings in the absence of any party who has been duly served with notice to appear therein as fully as if such party had duly attended;
- (c) sit in any place for the hearing and determining of any matter lawfully before them;
- (d) adjourn any proceedings to any time and place;
- (e) refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical matters, and accept the report of such expert as evidence;
- (f) at any stage of proceedings of their own motion, or on the application of any of the parties, and upon such terms as they think fit—
 - (i) direct parties to be joined or struck out;
 - (ii) to amend or waive any error or defect in the proceedings;

(iii)

- (iii) extend the time within which anything is to be done by any party, whether within or after the prescribed time; and
- (g) dismiss any proceedings at any stage where it thinks the matters involved trivial;
- (h) dismiss any proceedings without giving a decision, where, in the opinion of such judicial assessors, an amicable settlement can and should be brought about;
- (i) at any time withdraw from the consideration of an industrial board any matters remitted to it and conduct an inquiry into such matters;
- (j) inform themselves by any evidence, whether oral or written, which, in its opinion, is trustworthy, without regard to the rules of law as to the admissibility of evidence; summon witnesses to testify and produce documents and grant discovery and inspection of documents; provided that no person shall be required to produce his books or be questioned as to their contents in any proceedings before an industrial board, or such judicial assessors except by order of such judicial assessors; and such books, when produced, shall not, unless the person producing them, or on whose behalf they are produced, contends that the profits of an industry are not sufficient to permit of the payment of the wages or the granting of the conditions claimed or proposed to be paid or granted by any award, judgment, order, or industrial agreement, to be inspected by anyone except such judicial assessors;
- (k) and generally give such directions as to procedure as they may deem necessary.

23. The Board of Trade may, subject to this Act, make general rules—

- (a) regulating the practice, procedure, and forms under this Act;
- (b) prescribing the powers, duties, and rights of any officer of the Board of Trade;

(c)

- (c) for the making and enforcement of its awards, judgments, and orders, and the making and enforcement of industrial agreements ;
- (d) regulating the distribution of business between the members of the Board and delegating the jurisdiction of the board to a member thereof, or to the judicial assessors of the Board of Trade ;
- (e) providing for the payment of witnesses' expenses; and
- (f) generally for giving effect to the provisions of this Act and the rules made thereunder.

24. The Board of Trade or the judicial assessors of the Board of Trade and, on being authorised in writing by the Board of Trade, any member or officer thereof, or any other person, may at any time enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatever, wherein, or in respect of which any industry is carried on, or any work is being or has been done or commenced, or any matter or things taking or has taken place, which has been made the subject of a reference to the Board of Trade, or the judicial assessors of the Board of Trade, and inspect and view any work, material, machinery, appliances, or article therein.

And any person who hinders or obstructs the Board or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

25. (1) In addition to all persons interested, the Minister or the Board of Trade of its own motion may initiate any proceedings before the Board or the judicial assessors of the Board of Trade, and may summon before it or them such persons as it may deem necessary.

(2) In any proceedings before it the Board of Trade or the judicial assessors of the Board of Trade may dispense with the joinder of any person, or may join as claimant, applicant, or respondent all persons who, in the opinion of such Board or assessors, ought to be before it or them.

(3)

(3) No proceedings before the Board of Trade or the judicial assessors of the Board of Trade, shall abate by reason of the death of any party, and such proceedings shall by order of such Board continue upon such terms and conditions as such Board may think fit.

26. (1) Any aged, infirm, or slow worker who may deem himself or herself unable to earn the minimum wage prescribed by any award may apply to the Board of Trade or the judicial assessors of the Board of Trade for a permit in writing to work for less than the wage so prescribed.

(2) The Board of Trade, the judicial assessors of the Board of Trade, or any magistrate to whom the application may have been remitted specially or by rules of such Board shall be the tribunal to determine whether and on what conditions such permit shall be granted, and shall have power to revoke or cancel any permit.

(3) The tribunals to which such application may have been so remitted shall forthwith notify the secretary of the industrial union of the trade or calling in which such applicant desires to be employed of the grant of such permit and of the conditions contained therein.

(4) The said union may at any time after such notice apply to the said tribunal in the manner prescribed for the cancellation of such permit.

(5) An appeal against any such determination shall not lie from the tribunal to the Board of Trade except on the ground that the trade or calling concerned is one in which no such permit should be granted.

PART V.

INDUSTRIAL BOARDS.

27. (1) Industrial boards may be constituted by the Board of Trade on the recommendation of the judicial assessors of the Board of Trade for the purpose of making, after inquiry, recommendations to the judicial assessors of the Board of Trade as to the regulation of an industry by an award, and of inquiring into and reporting to such judicial assessors on any matter remitted by them.

Constitution
of boards.

(2)

(2) Each board shall, as far as is practicable, deal with all questions relating to the same industry.

(3) The Board of Trade shall appoint a chairman for any one or more of the boards which may be recommended for constitution. Such chairman shall preside over and be a member of such board or boards.

(4) The Board of Trade shall appoint as the other members of such boards persons who shall have been nominated by the employers and industrial unions concerned respectively, and who shall have been recommended by the court.

(5) On the chairman and members being appointed, a board shall be deemed to be constituted.

(6) Each such board shall, besides its chairman, consist of two or four other members, as may be recommended by the judicial assessors of the Board of Trade; one-half in number of such other members shall be employers, and the other half employees, each of whom has been or is actually and bona fide engaged in one of the industries or callings so specified: Provided that where the employers or the employees in the industries or callings consist largely of females, members may be appointed who are not engaged in the industries or callings: Provided also that where, in the opinion of the judicial assessors of the Board of Trade, no suitable employer or no suitable employee in the industry has been nominated or is willing to act on the board on behalf of the employers or employees, as the case may be, such judicial assessors may recommend any person whom it considers to be acquainted with the working of the industry to represent the employers or employees on the board, and the Board of Trade shall appoint such person.

(7) If any member of a board, without reasonable excuse, neglects on two successive occasions to attend meetings of the board duly convened, or to vote when present at any such meeting on any question duly submitted to the board, the board may proceed in his absence and he shall be liable to a penalty not exceeding five pounds, and the Board of Trade may declare his office vacant, and thereupon such member shall cease to hold office.

28. (1) Each member of a board shall, upon his appointment, take an oath before a commissioner for affidavits or a justice of the peace not to disclose any matter or evidence before the board or the court relating to—

Members of
boards.

- trade secrets ;
- the profits or losses or the receipts and outgoings of any employer ;
- the books of an employer or witness produced before the board or the court ; or
- the financial position of any employer or of any witness ;

and if he violates his oath, he shall be liable to a penalty not exceeding *five hundred* pounds, and, on conviction of such offence, he shall cease to hold office.

(2) The Board of Trade, on the recommendation of the court, may at any time dissolve a board, vary the constitution of a board, or remove any member of a board from office on the ground that such member is of unsound mind, or cannot attend with reasonable regularity the meetings of a board, or has abandoned his residence in this State, or is not properly discharging his duties as a member of such board. A member may resign his office.

(3) A new board may be appointed under this Act to take the place of a board that has been dissolved, or the members of which have resigned, or have ceased to hold office.

Members ceasing to hold office on a board shall be eligible for appointment to the new board.

The provisions of this Act relating to the constitution and manner of appointment of boards shall apply to the appointment of such new board.

(4) Where, from any cause, a member of a board ceases to hold office, the Board of Trade may appoint a duly qualified person, who shall be recommended by the judicial assessors of the Board of Trade, to his office for the residue of the period for which such member was appointed.

(5) Where a person is appointed to any vacancy on a board, the board as newly constituted may, if no member of the board objects, continue the hearing of and may determine any part-heard case.

29.

29. Every appointment of a member of a board shall be published in the Gazette, and a copy of a Gazette containing a notice of such appointment purporting to have been published in pursuance of this Act shall be conclusive evidence that the person named in such notice was legally appointed to the office named, and had power and jurisdiction to act in such office, and such appointment shall not be challenged for any cause. Appoint-ments to be notified.

30. The members of a board shall be paid such fees as may be fixed by the Governor. Fees.

31. The judicial assessors of the Board of Trade shall have power to punish as for contempt of Court all persons acting in contempt of boards or guilty of malicious attacks upon the conduct of chairmen or members of boards. Contempt.

32. A board may, on remission to it for inquiry and report of any industrial matter by the judicial assessors of the Board of Trade, with or without directions— Powers of boards.

- (a) investigate such matter judicially ;
- (b) conduct its proceedings in public or in private, as it may think fit ;
- (c) adjourn the proceedings to any time or place ;
- (d) exercise, in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, conferred on a Committee of Elections and Qualifications, and the provisions of the said section shall apply in respect of the proceedings of the board.

Provided that no person shall be required without his consent to produce his books, or to give evidence with regard to trade secrets, profits, losses, receipts, and outgoings of his business, or his financial position, to any board ;

- (e) admit and call for such evidence as in good conscience it thinks to be the best available, whether strictly legal evidence or not ;

(f)

- (f) make any recommendation which it may deem proper with regard to any industrial matter referred or remitted to it, and in such recommendation specify in what manner and to what extent in any particular the power of the judicial assessors of the Board of Trade should in the opinion of the board be exercised.

33. (1) The chairman shall require any person, including a member of the board, to give his evidence on oath, and may on behalf of the board issue any summons requiring the attendance of witnesses; if any person so summoned does not attend he shall be liable to a penalty not exceeding *fifty* pounds. Evidence.

(2) Any question as to the admissibility of evidence shall be decided by the chairman alone.

34. At any meeting of the board, unless otherwise provided in this Act,— Examination of witnesses.

- (a) the chairman shall preside ;
(b) each member except the chairman shall have one vote; and where the votes for and against any matter are equal, the chairman shall have a casting vote.
(c) any member of the board may, with the consent of the chairman, call, examine, or cross-examine witnesses.

35. In any proceedings before a board, no person, except with the consent of all parties to the proceedings, shall appear as an advocate or agent who is not or has not been actually and bona fide engaged in an industry. Qualification of advocates or agents.

36. (1) Proceedings before a board shall be commenced only by remission to the board by the judicial assessors of the Board of Trade. Commencement of proceedings.

(2) All meetings of a board shall be convened by the chairman by notice served upon such members in manner prescribed.

(3) Parties to a remission and other persons concerned shall be summoned to attend the meetings of boards by the chairman in manner prescribed.

37. A board, or any two or more members thereof authorised by the board under the hand of its chairman, may Power to inspect premises.

may enter and inspect any premises used in any industry to which any proceedings before the board relates, and any work being carried on there.

If any person hinders or obstructs a board or any member thereof in the exercise of the powers conferred by this section, he shall be liable to a penalty not exceeding *ten* pounds.

38. (1) The judicial assessors of the Board of Trade may at any time conduct any investigation or inquiry which has been referred to a board, and upon intimation being given to this effect by the Board of Trade to the chairman of the board, such chairman shall forward to the registrar a copy of the evidence taken before the board and the exhibits thereto, or if no such copy exists, the chairman's notes of the evidence.

Power of
judicial
assessors to
continue an
inquiry.

(2) Upon such intimation by the registrar the jurisdiction of the board to continue the inquiry shall cease, provided that the judicial assessors of the Board of Trade may at any time again refer to the board any matter arising in, or inquiry for report, and upon such reference the jurisdiction of the board to inquire and report upon the matter so referred shall revive.

(3) The judicial assessors of the Board of Trade may make general rules, regulating the practice and procedure in the forms to be used before boards.

PART VI.

UNION CONSTITUTIONS AND OTHER AGREEMENTS.

39. Notwithstanding the provisions of the Trades Union Act, 1881, the judicial assessors of the Board of Trade may entertain and adjudicate upon any legal proceedings instituted with the object of directly enforcing or recovering damages for a breach of any of the following agreements :—

- (a) The constitution and rules of any trade union.
- (b) Any agreement between members of a trade union as such concerning the conditions on which

which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ or be employed.

- (c) Any agreement for the regulation of any business or industry as between employers and employees made by a trade union with an employer or employers.
- (d) Any agreement for the payment by any person of any subscription or penalty to a trade union.
- (e) Any agreement made between one trade union and another; or
- (f) Any bond to secure the performance of any of the abovementioned agreements :

Provided that such agreements shall be in writing, and that copies of them, verified as prescribed, shall have been filed with the Board of Trade.

40. (1) All persons who are, by the nature of their occupations or employments, qualified to be members of a trade union and who are not of general bad character, shall be entitled to be admitted to membership of such union, and to remain members thereof and enjoy all advantages of membership in such union so long as they shall comply with the reasonable requirements of the constitution and rules of such union.

(2) Any question or dispute as to the character of any applicant or the reasonableness of the admission fee, subscription, and other requirements of the constitution and rules of any union, shall be determined by the judicial assessors of the Board of Trade, who shall also have power to direct that the constitution and rules of a trade union shall be altered or annulled in any particular in order to bring them into conformity with what they declare to be reasonable in the circumstances, and upon any such direction being made the constitution and rules affected shall be deemed to have been altered or annulled accordingly.

PART VII.

STRIKES.

41. (1) Upon the occurrence of an alleged strike or lock-out the Board of Trade may inquire whether a strike or lock-out has in fact occurred, and whether employees of the Crown are taking, or have taken, part in any strike which may have occurred, or have been or are aiding or abetting the same, and whether any trade union or member thereof is or has been aiding or abetting such strike, and whether any or what persons are or have been aiding any lock-out which may have occurred, and into the cause or causes 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 Board of Trade shall also publish a reasonably full report of the proceedings upon any such inquiry with all proper expedition for the information of the public, and shall add to such report any finding of approbation or reprobation of unions or individuals in connection with such strike or lock-out as it deems proper in the public interest—

(2) Where any such inquiry has been held by a judicial assessor—

(a) he may either in pursuance of his inquiry if there be reason found for the reprobation of any union in his discretion cancel, suspend, or modify the terms of any award from which members of such union may derive rights, and may cancel or annul the registration as a trade union of such union ;

(b) he may recommend that an award be made in respect of the industry or industries affected by such strike or lock-out.

The Minister shall submit the report and findings and any recommendation of the Board of Trade to Parliament.

42. Any employees of the Crown who appear from such report to have been or to be engaged in a strike which is reprobated in the public interest by the Board
of

of Trade shall from the date of the presentation of the report to the Minister lose all rights and privileges whatsoever to which, by the terms of their appointment or the rules of the service or any Act of Parliament or award, they may be or may become entitled, including rights of seniority, promotion, pension, and gratuity, and the same shall not be restored to them or any of them except by the order of the Board of Trade or by resolution of both Houses of Parliament.

43. During the progress of any strike or lock-out the Board of Trade may direct that a ballot or ballots be taken in the manner prescribed upon the question of the continuance of such strike or lock-out amongst the employees or employers respectively who are affected by such strike or lock-out and any such direction may from time to time be renewed.

Regulation of Industries.
Regulation of Industries.
Regulation of Industries.
Regulation of Industries.
Regulation of Industries.
Regulation of Industries.
Regulation of Industries.

Note.—PART VIII of this Bill has been used for the Industrial Arbitration (Amendment) Bill—Pages 26-33.

PART IX.

PROTECTION OF TRADE AND CONTROL OF MONOPOLIES.

66. This part of this Act shall not operate to affect in any manner the law with regard to patents.

67. (1) Where it appears to the Board of Trade that the supply or use of any article or thing (including land) or of any service is or has been wholly or partially monopolised to the prejudice of the public interests, it shall so report in the manner prescribed to Parliament.

(2) Upon the receipt of any such report from the Board of Trade the supply of the article, thing (including land), or service stated by such report to have been monopolised may, by resolution of both Houses of Parliament, whether a monopoly has been effected by the lawful private act of individuals or by statute or charter or otherwise, and whether such monopoly may have been effected by persons or corporations acting under a common understanding or for a common purpose or otherwise, and whether such monopoly has been effected in respect of the State at large or any section or definite or district thereof or otherwise, be declared to be a monopoly or quasi monopoly.

68. The Board of Trade may—

- (a) from time to time inquire and report to the Governor as to what should, having regard to market and other conditions, be the highest selling prices of or charges for any article or thing (including land) or any service the supply of which has been so declared to be a monopoly or quasi monopoly, and may vary any such report or make a new report;
- (b) in any report specify different selling prices or different charges for the same kind of article or thing (including land) or service having regard to—
 - (i) the different qualities thereof;
 - (ii) the sale or supply thereof, whether wholesale or retail;

(iii)

- (iii) the sale or supply under differing terms and conditions or in different parts of the State;
- (iv) any other matter which the Board of Trade may think fit to consider.

69. The Governor may by notice in the Gazette from time to time—

- (a) declare the maximum price or charge at which any article or thing (including land) or any service the supply of which is declared as aforesaid to be a monopoly or quasi monopoly may be sold or supplied in the State;
- (b) fix and declare different maximum prices or charges according to differences in quality or description or method or in the quantity of the article or thing (including land) or service sold or provided;
- (c) declare different maximum prices or charges for different parts of the State;
- (d) vary any price or charge previously fixed by him; but so as to apply only to future transactions;
- (e) in fixing any price or charge, do so relatively to any such standards of measurement or convenience or otherwise as he thinks proper; but the declared price or charge shall not in any case be lower than that contained in the last report of the Board of Trade dealing with such article or thing (including land) or service.

70. (1) If an person sells or offers for sale, or provides any article or thing (including land), or any service, the supply of which is declared as aforesaid to be a monopoly or quasi monopoly at a price or charge higher than the declared price or charge, he shall be liable to a penalty not exceeding *one hundred* pounds, and to refund to the purchaser or person charged the difference between the declared price or charge and the price or charge at which the sale or provision was actually made.

(2) If any person refuses to sell, or sell and convey or transfer, or provide at the declared or lower prices or charges any article or thing (including land)

or

or any service in his possession, or power in excess of what the Governor may, by notification, declare to be the reasonable requirements of such person, he shall be liable to a penalty not exceeding *one hundred* pounds.

(3) In any prosecution under this section it shall be a sufficient defence to show that on the occasion in question—

- (a) the defendant supplied or offered to supply a reasonable quantity of the article or thing (including land) or service at the declared or a lower price or charge; or
- (b) the defendant was a wholesale trader in any article or thing, other than land, and the person who demanded to be supplied was not a retail trader therein; or
- (c) there existed special circumstances in the particular case which rendered the declared price or charge inadequate, and that the action of the defendant was reasonable.

(4) Any prosecution under this section may be entertained by the judicial assessors of the Board of Trade alone.

71. The Governor may, on the recommendation of the Board of Trade, order returns of all articles or things (including land) the supply of which is declared as aforesaid to be a monopoly or quasi monopoly to be made in the manner and within the time prescribed, and may, by notice in the Gazette, authorise any person to enter any premises or vessel in which the Board of Trade reports that it suspects that any such article or thing is stored, and such person may use such force as may be necessary.

The abovementioned order may be of a general nature by proclamation in the Gazette, or a particular order directed to any one person or class of persons.

If any person fails to comply with any such order the judicial assessors of the Board of Trade may order him to pay a penalty not exceeding *one hundred* pounds, and in addition may order any such article or thing (including land) in his possession or ownership in respect of which no return is made to be forfeited to the use of His Majesty.

72.

72. Where the Board of Trade considers that any article or thing (including land) or any service the supply of which has been declared as aforesaid to be a monopoly or quasi monopoly should be distributed for public use or made available to the public, and that such article or thing (including land) or service is being stored or withheld from sale or otherwise refused for public use or advantage, it may, after fixing the price or charge therefor, so report to the Governor. The Governor may thereupon, by notice in the Gazette—

- (a) authorise the seizure and distribution of such article or thing or the means of providing such service, paying therefor the declared price, or in the case of the means of providing service the nett return from the supply of such service, less such sum as he thinks reasonable to cover the expenses of seizure and distribution or seizure and use respectively; and any person acting under such authority may enter any premises in which such articles or things (other than land) or means are stored or maintained, and use such force as may be necessary;
- (b) authorise the judicial assessors of the Board of Trade by decree or order under their hand to divest the owners of such land of their estate and to vest such land for the whole of such estate in the person or persons who are competent to hold and are found to be desirous of obtaining such land and estate, and make tender to such owner of the price fixed in respect thereof.

73. Any member of the police force or any person thereunto authorised in writing by the Board of Trade may at any time in the day or night enter and search any premises or vessel or part thereof where any article or thing liable to seizure or forfeiture under this Part of this Act is or is supposed to be, and if necessary for that purpose may break into and use force to enter such premises or vessel, or part, and may break open and search any chests, trunks, packages, and other things in which any such article or thing is or is supposed to be.

74.

74. No proceedings for the recovery of any penalty under this Part of this Act shall be taken before any other tribunal than that constituted by the judicial assessors of the Board of Trade, or one of them, or shall be taken without the consent of the Attorney-General being first obtained.

75. The publication of a notice in the Gazette shall be conclusive evidence that the declared price or charge as therein appearing has been duly and lawfully declared, that the article or thing (including land) or service is a monopoly or quasi monopoly, and that all steps necessary for the declaration of such price or charge have been duly taken in accordance with the provisions of this Part of this Act.

It shall not be competent for any person or court by any means whatever to question the legality or correctness of such declared price or charge or whether any article or thing (including land) or service, the price or charge for which is declared in such notice, is a monopoly or quasi monopoly.

76. (1) No action shall lie against any person for any act or thing done or purporting to be done by him under any authority conferred upon him by the Governor in pursuance of this Part of this Act.

(2) Any person who in any way resists, interferes with, hinders, or obstructs any officer or person in the exercise or discharge of any power or duty under this Part of this Act shall be guilty of an offence, and may be ordered by the judicial assessors of the Board of Trade to pay a penalty not exceeding *fifty* pounds.

PART

PART X.

INSURANCE AGAINST UNEMPLOYMENT.

77. (1) The following classes of employees shall be insured by the Board of Trade against involuntary unemployment in such a way as to enable the persons who comprise such classes to maintain a method of life which approximates reasonably closely to the minimum standard of life ascertained and declared by the Board of Trade in respect of such persons, and the Minister may authorise the payment out of Consolidated Revenue, which is hereby appropriated for the purpose, of the amounts directed to be paid by the Board of Trade in each case :—

- (a) Employees who have a record of active military service in the forces of the Commonwealth of Australia and who hold military discharges of a satisfactory character.
- (b) Employees who are the sole support of four or more dependent children.
- (c) Any further class or classes which the Governor may from time to time by proclamation add to this section upon the authority of a resolution or resolutions passed by both Houses of Parliament.

(2) There shall be no fees, premiums, or contributions payable by or chargeable against the said persons in respect of such insurance, but such insurance shall be conditioned in all other respects as may be prescribed.

(3) An employee who owns and otherwise possesses and occupies a house of a maximum rental value not exceeding fifteen shillings per week shall not for that reason alone be regarded as disentitled to the benefit of the insurance abovementioned; but the ownership and possession and occupation of such a house shall be taken into consideration as a factor affecting the amount of benefit which such insurance ought to secure to such employee.

78.

78. Classes of employees other than those mentioned in the preceding section may be insured by the Board of Trade against involuntary unemployment upon such conditions with regard to the payment of fees, premiums, or contributions, and otherwise to such effect as may be prescribed.

For the purpose of such insurance there shall be established under the control of the Board of Trade a fund called the "Unemployment Fund," into which shall be paid all fees, premiums, or contributions payable by employers and employees, and such subsidy as may be authorised to be added thereto by the State by resolution of both Houses of Parliament, and out of which shall be paid all unemployment benefits and expenses as may be necessary for the purpose of giving effect to the authority contained in this section.

79. The questions as to what constitutes involuntary unemployment or a reasonable refusal to accept work offered for the purposes of this part of this Act shall be determined by the Board of Trade, or a judicial assessor of the Board of Trade, in and for the purposes of any particular case, or by an insurance officer of the Board of Trade in the light of general orders of the Board of Trade to be made as prescribed, subject to appeal to the Board of Trade or a judicial assessor of the Board of Trade.

80. It shall be a condition of an employee's right to receive the benefits of insurance against unemployment under this part of this Act that he shall have maintained a reasonably complete record of his industrial history in the manner prescribed with the labour exchanges of the Board of Trade, and shall be able to show therefrom the various employments and the nature of the work in and upon which he has been engaged for a period of two years preceding the time at which he makes claim to such benefit, that he has been earnest in his search for employment, has made proper use of all opportunities of employment offering to him, and has taken pains to acquire and maintain a proper degree of efficiency in the performance of his work :

Provided

Provided that in the case of a person falling within class (a) of section One abovementioned the record shall be deemed to have been duly kept from the beginning of the present war until the date of the certificate of his military discharge, and to be satisfactory in respect of that period :

Provided further that the question as to what constitutes a reasonably complete industrial record shall be determined by the judicial assessors of the Board of Trade.

81. An employee shall be disqualified to receive the benefit of insurance under this Part of this Act—

- (a) while he is an inmate of any prison or almshouse, or other institution supported wholly or partly out of public funds ;
- (b) while he is resident temporarily or permanently outside the State ;
- (c) if he has lost employment by reason of a cessation of work which was due to and part of a strike or labour dispute at his place of employment.

In the events contemplated by paragraph (c) disqualification shall last as long as the strike or labour dispute continues, but it shall not extend to employees engaged wholly in an occupation different from the one in which the strike or labour dispute occurred, whether carried on in a separate building or not, provided that the employees in such different occupations have not become a party to the strike or labour dispute either directly or sympathetically.

The expression "strike or labour dispute" shall include any dispute between employers and employees, or between employees and employees from whatever cause originating, which is connected with the employment or the terms of employment, or with the conditions of labour of any employees, whether in the employment of the employer with whom the strike or labour dispute occurs or arises or not.
