

365

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No.       , 1915.

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## A BILL

To provide for the regulation of industries; to establish a Board of Trade and subsidiary industrial boards; to repeal the Clerical Workers Act, 1910, and the Industrial Arbitration Act, 1912; and for purposes consequent thereon or incidental thereto.

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Regulation of Industries Act, 1915."

2. This Act 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.

PART III.—INVESTIGATIONS.

PART IV.—LEGISLATING POWERS OF BOARD OF TRADE.

PART V.—INDUSTRIAL BOARDS.

PART VI.—BREACHES OF AWARDS AND OTHER OFFENCES.

PART VII.—CONCILIATION COMMITTEES.

PART VIII.—GENERAL AND SUPPLEMENTAL.

4. (1) The Clerical Workers Act, 1910, and the Industrial Arbitration Act, 1912, and section seventeen of the Apprentices Act of 1901, are repealed.

(2) All awards, orders, and industrial agreements made under authority of the Acts hereby repealed and in force at the commencement of this Act shall, until rescinded or amended under this Act, continue in force for the respective periods fixed by such awards, orders, or industrial agreements, and shall be deemed to have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 Board of Trade constituted by this Act. For the purpose of carrying out the provisions of  
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of this and the preceding subsection, the enactments of the repealed Acts and the rules made thereunder shall, if it be so directed by the Board of Trade, continue in force and shall, *mutatis mutandis*, apply to the hearing and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, 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 a Board constituted under the Industrial Arbitration Act, 1912, 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 Board constituted under the Industrial Arbitration Act, 1912, 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 Board constituted under the Industrial Arbitration Act, 1912, 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 Board of Trade 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.

“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 of Industrial Arbitration” means Court of Industrial Arbitration established by the Industrial Arbitration Act, 1912, repealed hereby.

“Employer” includes the Crown.

“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 as such, and registered with the Minister in the manner prescribed.

“Industrial magistrate” means industrial magistrate appointed under this Act.

“Industry” means craft, 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.

“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

“Trade 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.

PART II.

THE BOARD OF TRADE.

**6.** (1) There is hereby constituted a Board of Trade, to comprise three commissioners, two of whom shall be experienced in the law, and to be called “The New South Wales Board of Trade,” which shall be a body corporate, and by that name shall have perpetual succession and a common seal.

(2) All courts, judges, and persons acting judicially shall take judicial notice of the incorporation and the common seal of the New South Wales 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 three persons to be Commissioners of the New South Wales Board of Trade, who, subject to the provisions hereinafter contained, shall hold office for a period of seven years from the date of their respective appointments as such commissioners and members of such Board of Trade and be paid such salary, remuneration, and allowances as the Governor may direct, which shall not be diminished or increased during their respective terms of office or be less than the salary, remuneration, and allowances of a Judge of the Supreme Court, and upon such direction such payment shall become a charge upon the Consolidated Revenue. The commissioners of the said Board of Trade shall have precedence according to the time and order of their appointment next after the Judges of the Supreme Court.

**8.**

**8.** Any commissioner of the said Board of Trade may be removed from his office within the period of the seven years for which he has been appointed by the Governor on an address to 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 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 for a term of seven years. Every person appointed a commissioner of such Board of Trade shall at the expiration of his term of office be eligible for re-appointment.

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: Provided that where the commissioner is required by this Act to be of experience in the law, the deputy shall be of experience in the law.

On the happening of a vacancy in the office of President of such Board of Trade, the Governor shall appoint a person to fill that office.

**10.** 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 jurisdictions and functions to one or more commissioners of such board.

**11.**

**11.** 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, or be in any way concerned or interested in a business or industry, or in any way participate or claim to be entitled to participate in any profit, benefit, or emolument arising from any such business or 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.

**12.** The judge of the Court of Industrial Arbitration, appointed under the Industrial Arbitration Act, 1912, shall for the purpose of determining his rights as to a judicial pension be taken to have been appointed a judge of the Supreme Court on the day of his appointment to be president of the Court of Arbitration under the Industrial Arbitration Act, 1901, in the year one thousand nine hundred and five, and to have been and remained a judge of the Supreme Court from that date to the date of his ceasing to hold any judicial office.

*Powers of the Board of Trade.*

**13.** 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—

- (1) the standard life of the community, and any reasons which may exist for advancing such standard of life ;
- (2) the standard of life of the employees in any industry, and any reasons which may exist for advancing such standard of life ;
- (3) the conditions of competition between employers, or between employers and persons who are not employers in the conduct of any industry

372

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;

- (4) the cost of living in the State;
- (5) 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;
- (6) 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;
- (7) the existence of sweating in any industry;
- (8) 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.
- (9) the industrial efficiency of the community;
- (10) the profits of trade and manufacture;
- (11) wages, and social and industrial conditions;
- (12) labour, employment, and 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 regulation of industries.

**14.** (1) Upon the occurrence of an alleged strike or lock-out the Board of Trade at the direction of the Minister shall, or of its own motion may, inquire whether a strike or lock-out has in fact occurred, and 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



373

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 Minister and 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; and may further as the result of its inquiry make an award 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.

(2) 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 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.

(3) During the progress of any strike or lock-out the Board of Trade may direct that a ballot or ballots be taken 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.

**15.** (1) The Board of Trade shall, upon the application of a trade union or an employer or employers employing not less than fifty 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  
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and employers or between trade unions and trade unions and shall, for the purpose of dealing with such claim or claims, have power to make laws for the 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, without restriction to the matters raised in such claim or claims, and upon any principle which the Board of Trade may see fit to adopt (subject to the provision for review of such principles hereinafter contained) for the purpose of ensuring that so far as considerations of the industrial efficiency of the community permit the standard of life of employees in the community shall be advanced and for 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 give an opportunity in the prescribed manner to any person or trades union interested to be heard by 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 the Board of Trade to be relieved from any obligation imposed by such award.

(4)

(4) Upon any claim being made for the regulation of a business or an industry in any particular, the Board of Trade shall have power to investigate generally the conditions of such business or industry with all the powers of a Royal Commission under the Royal Commissioners' Evidence Act of 1901 or any Act passed in substitution for or amendment of the said Act.

(5) Every award of the Board of Trade shall, within fourteen days of its publication in the Gazette, be presented by such Board to the Minister, and shall, 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.

(6) 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, 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.

**16.** Upon the application of the Minister or of an employer or employers or of any trade union, the Board of Trade may 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.

**17.** The Board of Trade shall have all the powers and jurisdiction of the Supreme Court in addition to the powers of jurisdiction hereinbefore conferred upon it, and may hear and determine according to equity and good conscience all questions arising under this Act, whether of law or fact, including any question which  
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3/16

may be brought before it or which it may deem it expedient to hear for the purpose of determining the rights and duties of any person or trade union.

The Board of Trade may, on reference made as prescribed, exercise the functions of an arbiter in connection with disputes between employers and employees as such, or as classes in the community, or between employers and employers as such, or between trade unions and trade unions, and shall in exercising such functions have power to determine all such disputes by considerations of moral fairness.

Nothing in this Act shall be interpreted to limit by implication the jurisdiction conferred upon the Board of Trade by this Act.

**18.** The Board of Trade may at any time by general rule or special order 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 consider it is desirable to have included in any claim for investigation, or upon which the Board of Trade desires information for the purpose of making any law; and the Board of Trade shall inform its 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 Board of Trade. Any remission or reference made as aforesaid may be withdrawn by the Board of Trade at any time, and whether the 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 of claims by a member of a trade union for arrears of wages

wages due to him under any award or industrial agreement, 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.

**19.** The Board of Trade in the exercise of its jurisdiction and powers under this Act may enforce its own awards, determinations, and judgments, and may enforce industrial agreements, and for these purposes may make and pronounce all such judgments, and make such orders and awards, or give such directions as may be necessary for doing complete justice in any proceedings before it, and for the execution of any such judgment, or the enforcement of any order, award, or industrial agreement, and may direct the issue of any writ or process of the Supreme Court, or impose and enforce any penalty authorised or prescribed by this Act, or the rules made thereunder, in the same manner as a decree, finding, order, direction, or judgment of the Supreme Court is in force, and the Prothonotary, Master in Equity, sheriff, bailiffs, and other officers of the Supreme Court and district court and courts of petty sessions shall be deemed to be officers of the Board of Trade, and shall exercise the powers and perform the duties prescribed by any rules of the Board of Trade made under this Act.

**20.** The Board of Trade shall have the same power to punish for contempt of its power and authority as is possessed at the commencement of this Act by the Supreme Court.

**21.** The Board of Trade shall have jurisdiction to award costs in all matters brought before such board in its arbitral or judicial capacities, including matters dismissed for want of jurisdiction; but no costs shall be allowed of any counsel, solicitor, or agent, except on an appeal to the Board of Trade, or 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.

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378

**22.** (1) The Board of Trade may by rules prescribe in what case and under what conditions an appeal shall lie to it from any order, judgment, or award of a single member of such Board.

(2) Any member of the Board of Trade may sit on the hearing, and take part in the decision of any appeal from himself.

(3) 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 Board of Trade from any decision or finding of a magistrate acting under the powers conferred by this Act.

(4) Every appeal under this Act shall be by way of re-hearing, and 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.

**23.** (1) Save as aforesaid, every order, judgment, or award of the Board of Trade shall be final and conclusive, and shall not be impeachable for any informality or want of form, or be appealed against, reviewed, quashed, or in any way called in question in any court on any account whatsoever.

(2) Proceedings before the Board of Trade shall not be removable by certiorari, and no writ of prohibition shall be issued, and no injunction shall be granted by any court other than the Board of Trade in respect of or to restrain proceedings under any award, order, or judgment of the Board of Trade relating to any matter which, on the face of the proceedings, appears to be within the jurisdiction of the Board of Trade.

(3) The validity of any proceedings or decision of an industrial board, or of a chairman of an industrial board, shall not be challenged, except as provided by this Act.

**24.**

**25.** The Board of Trade may grant an injunction against, or a mandamus to any member or officer of the Board of Trade, or any industrial board or magistrate.

**26.** The Board of Trade may—

- (a) at any time rescind or vary its own awards, 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 it ;
- (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 its own motion, or on the application of any of the parties, and upon such terms as it thinks fit—
  - (i) direct parties to be joined or struck out ;
  - (ii) to amend or waive any error or defect in the proceedings ;
  - (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 the Board of Trade, 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 itself ;
- (j) inform itself by any evidence, whether oral or written, which, in its opinion, is trustworthy, without regard to the rules of law as to the admissability

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 the Board of Trade except by order of such board; 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 the members of the Board of Trade;

(k) and generally give such directions as to procedure as it may deem necessary.

**27.** 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) for the making and enforcement of its awards, judgments, and orders, and the making and enforcement of an industrial agreement;
- (d) regulating the distribution of business between the members of the Board and delegating the jurisdiction of the board to a member thereof, or as permitted by this Act and magistrates;
- (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.

**28.** 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



of which any industry is carried on, or any work is being or has been done or commenced, or any matter or thing s taking or has taken place, which has been made the subject of a reference to 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.

**29.** (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 in its arbitral or judicial jurisdictions, and may summon before it such persons as it may deem necessary.

(2) In any proceedings before it 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, ought to be before it.

(3) No proceedings before 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.

**30.** (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 for a permit in writing to work for less than the wage so prescribed.

(2) 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.

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582

[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 subscriptions 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.

**Sees. 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.

**Sees. 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. (*Trolly 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 *bond 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 \_\_\_\_\_, 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.

Eighthly, 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.”

387

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 "authorisad" 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 actianable.

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 autorised 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 SEQUESTERATE FUNDS.

The Court may grant an injunction against all persons or unions engaging in an "unauthorised" strike or lock-out, and may also sequesterate 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.

322

**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.

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389

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1915.

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## A BILL

To provide for the registration and incorporation of industrial unions, and the making and enforcing of industrial agreements, and for the regulation of industries and industrial matters; to establish an Industrial Court, industrial boards, and other subsidiary tribunals; to amend the Early Closing Act, 1899, the Early Closing Amendment Act, 1900, the Early Closing Amendment Act, 1910, the Early Closing Hairdressers' Shops Act, 1906, the Saturday Half Holiday Act, 1910, the Factories and Shops Act, 1912, the Coal Mines Regulation Act, 1912, the Supreme Court and Circuit Courts Act, 1900, the Supreme Court and Circuit Courts



(Amendment) Act, 1912, the Crimes Act, 1900, the Apprentices Act, 1901, the Trade Union Act, 1881, the Statute of Limitations, 5 Vic. No. 9, the Friendly Societies Act, 1899, and the Public Service Act, 1902, the Mines 5  
Inspection Act of 1901, the Justices Act of 1902, the District Courts Act of 1901, the Companies Act of 1899, or any Act amending any of the said Acts; to repeal the Clerical Workers Act, 1910, and the Industrial Arbitration Act, 1912; and for purposes consequent thereon or incidental thereto.

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

## PART I.

### PRELIMINARY.

- |                             |   |
|-----------------------------|---|
| Short title.                | <b>1.</b> This Act may be cited as the "Regulation of 20 Industries Act, 1915."                       |
| Commencement of Act.        | <b>2.</b> This Act shall commence on and from a date to be proclaimed by the Governor in the Gazette. |
| Division of Act into parts. | <b>3.</b> This Act is divided into Parts as follows :—  |

- |  |    |
|--|----|
| PART I.—PRELIMINARY— <i>ss.</i> 1-5.                               | 25 |
| PART II.—INDUSTRIAL UNIONS— <i>ss.</i> 6-23.                       |    |
| PART III.—INDUSTRIAL AGREEMENTS— <i>ss.</i> 24-26.                 |    |
| PART IV.—STRIKES AND LOCK-OUTS— <i>ss.</i> 27-36.                  |    |
| PART V.—THE INDUSTRIAL COURT— <i>ss.</i> 37-59.                    |    |
| PART VI.—INDUSTRIAL BOARDS— <i>ss.</i> 60-73.                      | 30 |
| PART VII.—BREACHES OF AWARDS AND OTHER OFFENCES— <i>ss.</i> 74-76. |    |
| PART VIII.—CONCILIATION COMMITTEES— <i>ss.</i> 77-80.              |    |
| PART IX.—GENERAL AND SUPPLEMENTAL— <i>ss.</i> 81-94.               | 4. |

4. (1) The Clerical Workers Act, 1910, and the Industrial Arbitration Act, 1912, and section seventeen of the Apprentices Act of 1901, are repealed. Repeal and  
saving clause.

(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. In construing any such award, order, or industrial agreement, references to the registrar shall be read as references to the registrar appointed 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 the Court constituted by this Act, or by the registrar or an industrial magistrate, respectively. For the purpose of carrying out the provisions of this and the preceding subsection, the enactments of the repealed Acts and the rules made thereunder shall 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 matters or proceedings, and filed or deposited with the Court of Industrial Arbitration, the industrial registrar, or industrial magistrate, shall be handed over to the Court, the registrar, or industrial magistrate, under this Act, and shall be deemed to have been filed or deposited in accordance with the provisions of this Act.

(4) The industrial registrar and all industrial magistrates appointed under the Acts hereby repealed, and holding office at the commencement of this Act, shall be deemed to have been appointed hereunder.

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

(6)

(6) Any proceedings pending before a board at the commencement of this Act shall be continued as if this Act had not passed: Provided that such board shall not make an award but shall refer its findings and recommendations to the Court, and the Court may from time to time refer back any such finding and recommendation to the board for further report, and the Court may make any award in regard to the industry concerned. 5

(7) All rights of appeal under the Acts hereby repealed shall be preserved, and may be exercised before the Court under this Act, and subject to the terms and conditions prescribed by the repealed Acts, as if these Acts continued in force. 10

*Definitions.*

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Definitions.

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

“Apprentice” means any minor who is employed or is serving a period of training with a master in an industry which by custom or award requires more than one year of such training; and includes children working with their parents. 20

“Award” means award under this Act, or an award in force at the commencement of this Act under either of the repealed Acts, and includes a variation of any such award. 25

“Board” means industrial board constituted under this Act.

“Court” means Industrial Court established by this Act. 30

“Court of Industrial Arbitration” means Court of Industrial Arbitration established by the Industrial Arbitration Act, 1912, repealed hereby. 35

“Employee” includes clerks, journalists as defined by this Act, and any person who is or has been or desires to be employed in any industry, whether on wages or piece-work rates, or any other

- 5 other method of remuneration, or as a member of a buttygang, but shall not (unless he be an apprentice) include a member of a family who is a minor in the employment of a parent; and the fact that a person is the owner or lessee of any tools or other implements of production, or any vehicle used in the delivery of goods, shall not in itself prevent such person being held to be an employee.
- 10 “Employees of the Crown” means persons employed by the Government of the State through the Public Service Board or any Minister, Trust, Commission, or Board exercising executive and administrative functions on behalf of the
- 15 Government of the State, including the Chief Commissioner for Railways and Tramways, the Sydney Harbour Trust Commissioners, the Metropolitan Board of Water Supply and Sewerage, and the Hunter District Water Supply and Sewerage Board.
- 20 “Improver” means an employee who, by direction of the Court given in his case, is serving at a special wage a period of training with an employer for the purpose of becoming a qualified worker in an industry.
- 25 “Industrial Agreement” means industrial Agreement made and filed under any Act hereby repealed, or under this Act.
- 30 “Industrial demarcation” means the determination of the claim of any one class of employees to do any work in an industry to the exclusion of all other employees.
- 35 “Industrial magistrate” means industrial magistrate appointed under this Act.
- 40 “Industrial union” means industrial union constituted under or recognised by this Act, and includes the officers and members of such union.
- “Industrial matters” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers  
or

or employees, or of persons who have been or may become employers and employees in any industry; and, without limiting the ordinary meaning of the above definition, includes all or any matters relating to— 5

- (a) the wages, allowances, or remuneration of any employee, including the questions whether piece-work shall be allowed in an industry; whether employees shall be granted an annual leave or holidays upon full pay in any 10 industry; whether and under what conditions employees may board and lodge with their employers; whether monetary allowances shall be made by employers to employees in respect of standing back or waiting time 15 imposed by the conditions of the employer's enterprise, or because of intermittency of industrial operations or other causes;
- (b) the hours of employment, including claims to restrict work before or after certain hours 20 in any industry; and the sex, age, and qualifications of employees, and the mode, term, and conditions of employment or non-employment, including claims to have protective appliances, clothing, hot or cold 25 water, and sanitary and bathing accommodation provided for the use of employees in any industry, and the fixing of standards of normal temperatures and atmospheric purity in working places below or above ground, 30 and the prescribing of shorter hours, higher wages, or other conditions in respect of persons employed under abnormal conditions, and the determination of the conditions which constitute abnormal conditions or 35 abnormal working places; and notwithstanding the provisions of the Apprentices Act, 1901, or any Act amending the same, or of any contract, already made or to be made, or the effect of any custom of, or against appren- 40 ticeship, the term of apprenticeship in any industry

392

5 industry and the earliest and latest age at  
which apprenticeship shall begin, and the  
treatment to be extended by masters to  
apprentices, including the insurance of ap-  
prentices against accident or other harm, and  
10 the matters to be taught to apprentices, and  
the method, times, and conditions of  
instructing apprentices, whether in factory,  
workshop, place of business, technical, trade,  
or other school, or otherwise, and whether  
15 in the time and at the expense of the master  
and apprentice, or master only, or apprentice  
only; and any claims for the modification  
of the rules or conditions of apprenticeship  
in individual cases, and any claim or  
20 dispute which may arise between an  
apprentice and his master with regard to  
any of the above matters, or to the payment  
to an apprentice of the prices or rates reserved  
to him by his contract or indentures of  
apprenticeship as distinguished from an  
award, or as to any forfeiture incurred by  
an apprentice in terms of his contract or an  
25 award, or as to the hours to be worked for  
his master by an apprentice; and the notifi-  
cation or registration by a master of all  
contracts of apprenticeship entered into by  
him, and all assignments of rights and obli-  
gations thereunder, and all acts of cancella-  
30 tion or abrogation by other means of such  
contracts; and any penalties or disciplinary  
provisions to be imposed on masters or  
apprentices for breaking a contract of appren-  
ticeship, or on any person employing an  
35 apprentice who has broken a contract of  
apprenticeship; and any dispute or difference  
between any master and any apprentice  
arising under any indenture of apprentice-  
ship or assignment thereof;  
40 (c) the employment of juniors, or improvers, or  
of any person or persons or class of persons in  
any

- any industry, including the disqualification of any persons for employment in any industry by reason of sex or age, or disease, or a claim to dismiss or to refuse to employ any particular person or persons or class of persons, 5 or any question whether any particular person or persons or class of persons ought (having regard to the public interests, and notwithstanding the common law rights of employers or employees and notwithstanding the provisions of the Coal Mines Regulation Act, 1912, or any colliery rules authorised thereby) to be continued or reinstated in the employment of any particular employer ;
- (d) any established custom or usage of any industry, or section of an industry, either general or in any particular locality ;
- (e) the interpretation and enforcement of an industrial agreement or award ;
- (f) any matter relating to any industry which is included in an industrial agreement or which has caused or, in the opinion of the Minister or the Court, is likely to cause disagreement or friction in such industry ;
- (g) generally all questions as to what is fair and right according to the standard of the average good employer and the average competent and honest employee in all matters pertaining to the relations of employers and employees whether or not the relationship of employer and employee exists or existed at or before the time of any application to the Court or at the time of the making or enforcement of any order or award by the Court ;
- (h) the giving of notice to the secretary of an industrial union or to the Minister of any vacancy among employees, in order that the same may be filled by a member of the said or any other industrial union, and the making of any direction as to the method of employment or otherwise, in order to secure

393

*Regulation of Industries.*

secure that full effect be given to the right to preference conferred by this Act, and to any award or order of the Court granting preference.

- 5 (i) any claim that the employees in an industry be engaged through an industrial union or through the Minister ;
- (j) the regulation of the relations between employers and employees, or between employees and employees, and for this purpose the imposing of conditions on the conduct of any trade or business, and the provision of benefits to persons engaged therein ;
- 10 (k) trusts, combinations, and agreements in restraint of trade ;
- 15 (l) any question of industrial demarcation ;
- (m) any matter, whether industrial or not, which in the opinion of the Court has been, is, or may be, a cause or contributory cause of a strike or lock-out.

English Trade Union Act, 1913, s. 1 (2).

20 " Industry " means craft, 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.

25 " Journalist " means any person who for reward contributes to the literary or artistic matter published in a newspaper; and includes editors, sub-editors, news-editors, reporters, leader writers, writers of side and other articles, artists, illustrators, process photographers, compilers, and engravers.

30 " Justice or Judge " means judge of the Court constituted by this Act, and includes the President and an Acting President and an acting Justice of the Court, but does not include an associate Justice.

35 " Junior " means any minor employed in an industry which does not call for a period of training of more than one year's duration.

40 " Lock-out "



- “Lock-out” or “to lock-out” (without limiting its ordinary meaning) includes the instigating to and the aiding in and abetting a lock-out and a closing of a place of employment, or a suspension of work, or a refusal by an employer to continue to employ any of his employees with a view to compel his employees, or to aid another employer in compelling his employees, to accept terms of employment. 5
- “Magistrate” means industrial, stipendiary, or police magistrate. 10
- “Members of a board” and “members of a conciliation committee” include the chairman of the board and of the committee respectively.
- “Minister” means Minister of the Crown administering this Act. 15
- “Preference” means the right of members of an industrial union to preferential employment in any industry.
- “President” means President of the Industrial Court under this Act, and includes an acting President. 20
- “Prescribed” means prescribed by this Act, or by regulations made thereunder.
- “Public works” are those upon which employees of the Crown are engaged. 25
- “Registrar” means industrial registrar appointed under this Act.
- “Repealed Acts” means the Acts repealed by this Act. 30
- “Schedule” means Schedule to this Act, and any amendment of or addition to such Schedule made in pursuance of this Act.
- “Strike” or “to strike” (without limiting its ordinary meaning) includes the instigating to and the aiding in and abetting a strike and the cessation of work by any number of employees acting in combination, or a concerted refusal or a refusal under a common understanding by any number of employees to continue to work for an employer with a view to 35  
to 40

5 to compel their employer, or to aid other employees in compelling their employer, to accept terms of employment, or with a view to enforce compliance with demands made by themselves or other employees on employers.

“Trade union” means trade union registered under the Trade Union Act, 1881, and includes a branch so registered.

PART II.

10 INDUSTRIAL UNIONS.

6. (1) A bona fide trade union of employees or branch thereof, or any combination of persons engaged in the occupations of clerks or journalists not registered as a trade union, may apply to the Minister to be registered as an industrial union, in respect of specified industries, and shall, within the prescribed time, forward to the Minister three copies of its proposed rules as such industrial union. For the purposes of this application the proposed rules of the applicant union, branch, or combination shall be deemed to include the rules in Table A of Schedule I to this Act, except in so far as the same are expressly or impliedly excluded by the said proposed rules.

(2) The Minister shall give notice as prescribed of the application of the said union, branch, or combination.

(3) Within the prescribed time and in the prescribed manner any industrial union or employer may by notice to the Minister oppose such application.

7. Upon an application to be registered as an industrial union, the Minister may require such evidence as to him seems fit, either oral or on affidavit—

(a) of the authority of the persons signing the form of application ;

(b)

Application to register as an industrial union.

Notice to be given.

Registration may be opposed.

Of what matters evidence may be required before an application to register as an industrial union will be granted.

- (b) that the applicant union, branch, or combination comprises only persons who are by the nature of their occupation qualified to be members of the industrial union in respect of which the application is made; 5
- (c) that the persons on whose behalf the application is made should not in the public interest or for other good reason join an industrial union which has been already registered;
- (d) that the registration of the applicants will not 10 unjustly affect any other industrial union.
- (e) that the application is bona fide in the interests of employees, and not in the interests of an employer or employers.

Rules in Table A to be deemed the rules of the industrial union.

**8.** (1) Upon registration as an industrial union a trade 15 union, branch, or combination shall be deemed to have adopted, in addition to its other rules, if any, all the rules in Table A in Schedule One hereto, except in so far as these or any of them have been expressly or impliedly excluded, and its members shall be bound by 20 the same as from the date of the said registration as if they had been duly passed according to the constitution and rules of the union, branch, or combination.

(2) An industrial union may from time to time repeal, amend, or add to its rules, including those in 25 Table A.

Power of Minister to refer to Court.

**9.** The Minister may refer to the Court either for inquiry and report or for determination, any matter arising under the last three preceding sections.

Saving of existing registration under earlier Acts.

**10.** Any person or body whose registration under the 30 Industrial Arbitration Act, 1901, the Industrial Disputes Act, 1908, or the Industrial Arbitration Act, 1912, as an industrial union of employees is at the commencement of this Act in force shall, upon signification to the Minister in the manner and within the time prescribed 35 of its intention to continue to be an industrial union in respect of the industries in respect of which it is registered, be registered under this Act as an industrial union in respect of such industries, and thereupon the rules in Table A shall be deemed to be a part of the 40 rules of such union except in so far as the same are expressly or impliedly excluded.

**11.**

395

11. (1) The Governor may from time to time amend or repeal Schedule I, Table A. Governor may amend Table A.

(2) The Court may from time to time, on the application of the Minister or of an industrial union, amend the registration of an industrial union in respect of the industries it represents.

12. An industrial union shall forward to the Minister, subject to the prescribed penalties, at the prescribed dates, and verified in the prescribed manner, lists of the names and addresses and occupations of its members, and copies of its rules, and copies of industrial agreements to which it is a party. In any proceedings under this Act such lists and copies shall be prima facie evidence against all persons of the matter therein contained. Names and addresses of members, and copies of rules and agreements to be forwarded to Minister.

13. For the purposes of voluntary and compulsory winding-up, an industrial union shall be regarded as a company registered under the provisions of the Companies Act, 1899, and any Act in amendment or extension of or substitution for that Act, and may be wound up on the petition of any person or industrial union who or which has obtained an order of the Court for the payment of money by such union whether by way of damages, penalty, contribution costs, or otherwise. It shall not be necessary to prove that any debt is due by the union other than the amount so ordered by the Court to be paid. Except as aforesaid, no order shall be made by any Court for the compulsory winding-up of any industrial union. Winding-up of an industrial union. See sections 32 and 19 (4).

30 When an industrial union has been wound up, the Minister shall cancel its registration.

14. Any industrial union may, with the consent of the Minister upon application made as prescribed, change its name, and upon such change being made the Minister shall cause the new name to be entered on the register in place of the former name, and shall issue a certificate of registration altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the industrial union or of any member thereof or render defective any legal proceedings instituted or to be instituted by or on Change of registered title.

on behalf of or against the industrial union, and any legal proceeding may be continued or commenced against the industrial union by its new name that might have been continued or commenced against the industrial union by its former name.

Subsidiary  
objects not  
to affect  
registration.

English  
Trade Union  
Act, 1913,  
s. 1 (1).

**15.** (1) The fact that a trade or industrial union has objects or powers other than the objects and powers authorised and conferred by this Act or by the Trade Union Act of 1881 shall not preclude or invalidate the registration of such union, either as a trade union under the Trade Union Act of 1881 or as an industrial union under this Act, provided that the objects and powers authorised and conferred by the said Acts are the principal objects of the said union.

(2) The Court may at any time validate, on such terms as it thinks just, any act of a trade or industrial union which was done prior to the passing of this Act and was invalid by reason of the objects and powers of the said union not having been authorised by the Trade Union Act of 1881 or the repealed Acts if such act was done bona fide, and if the objects and powers authorised and conferred by the said Trade Union Act and the repealed Acts were the principal objects of such trade or industrial union; and may restore to the register of trade or industrial unions any trade or industrial union whose registration has been cancelled within one year prior to the passing of this Act, if in the opinion of the Court such registration would not have been cancelled had this Act been in force; and for these purposes the Court may give all necessary directions and make all necessary orders.

(3) Upon the passing of this Act the registration of a trade union shall not be cancelled except by order of the Court.

Property of  
trade union  
to vest in  
industrial  
union.

(4) Upon the registration of a trade union as an industrial union, all the property, rights, and obligations of such trade union shall vest in and be exercised by and enforced against the said industrial union and the members thereof, unless the Court on the application of any person interested or of its own motion otherwise direct, and, notwithstanding anything in the Trade Union

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Union

Union Act of 1881, all the contracts mentioned in section four of the said Act shall be enforceable, and proceedings may be instituted in the Industrial Court by an industrial union, or any member thereof, with the object of directly or indirectly enforcing the same or recovering damages for the breach thereof.

See Trade Union Act, s. 4. Authority to make contracts.

(5) The registration of a trade union as an industrial union shall not affect its rights, privileges, and liabilities under the Trade Union Act of 1881, except as provided by this Act.

(6) The Minister may authorise an industrial union to register as a friendly society under the Friendly Societies Act of 1899, and Acts amending the same, and may direct that a portion of its funds and subscriptions, sufficient to meet the liability of the said union to pay benefits (other than strike pay) to its members according to the provisions of its rules, be set apart and kept in a separate account and administered under the said Friendly Societies Act of 1899, and Acts amending the same; and thereupon all the obligations and rights of the said union and its members in respect of the said benefits shall be administered, enforced, and regulated according to the rules of the said union in that behalf under the said Friendly Societies Act of 1899, and the Acts amending the same, and the funds so set apart as aforesaid shall not be liable to be taken in execution, or attached, or otherwise dealt with under this Act, or by any process of law, except as provided by the said Friendly Societies Act of 1899, and the Acts amending the same. No authorisation shall be granted under this subsection unless the Registrar of Friendly Societies certify that the funds of the union so to be set apart are sufficient to meet all the obligations to which they are or may become liable. Except as aforesaid, nothing in this Act shall affect any trade or industrial union which is registered as a friendly society at the date of the passing of this Act.

Industrial union may be registered as a friendly society in respect of its benefit funds.

*Rights and privileges of industrial union.*

40. **16.** (1) Upon the issue of a certificate of incorporation an industrial union shall, until the registration of the union

Industrial union to be a corporation.

union is cancelled in pursuance of section thirteen of this Act, be for the purpose of this Act a body corporate by the name mentioned in such certificate, and shall have perpetual succession and a common seal.

(2) An industrial union may apply to the Court at any time for the regulation of any industry in respect of which it is registered, or for the purpose of determining any question of industrial demarcation of any other industry.

Protection of the funds of an industrial union.

**17.** (1) No Court other than the Industrial Court shall entertain any action, suit, or proceedings against an industrial union, or a member or the members thereof, as such.

(2) The property of an industrial union, or of any member thereof as such member, shall not be taken in execution by any process of law other than in pursuance of this Act, and in respect of obligations imposed by this Act, nor shall an industrial union be wound up compulsorily except as provided by this Act.

(3) An industrial union may take proceedings and sue in the industrial, or any court, in its registered name.

Powers of an industrial union to own property and invest funds.

**18.** An industrial union—

- (a) may purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with any real or personal property, and without limiting the generality of these powers take shares in any registered company whether registered in New South Wales or not, and publish and maintain a newspaper, and subscribe to the maintenance of a member of Parliament or to the funds of a political party, and apply the funds of the industrial union to any lawful object or purpose for the time being authorised by its rules: Provided that the Court may on the application of any member of an industrial union limit the amount of the funds of the industrial union which may be employed for any object or purpose which is authorised by the rules of the union, but not specifically authorised or contemplated by this Act or the Trade Union Act of 1881; (b)

(b) may apply to the Court for advice or directions upon any matter involving an interpretation of its rules or of corporate concern.

To apply to the court for advice. English Trade Union Act, 1913, s. 3 (2).

19. (1) Every dispute between a member of an industrial union and such union shall be decided in the manner directed by the rules of such union; provided that any member of an industrial union who is aggrieved by any act or omission of such union may apply to the Court for relief, and the Court may thereupon summon before it any person and make such order in the premises as may be necessary to meet the justice of the case.

Disputes between members of an industrial union.

(2) The Court, on the application of an industrial union or member thereof, may order the payment by any member of such union of any fine, penalty, call, subscription, or contribution payable under the rules of such union.

Recovery of fines, penalties, and subscriptions.

(3) The Court, on the application of any person or industrial union entitled to initiate proceedings under this Act, may order the payment by members of an industrial union of a contribution, not exceeding five pounds from any one member, to any penalty incurred or payable by such union, or to the payment of damages by such union in respect of an unauthorised strike. Any such order shall impose a charge upon the future earnings of such members which shall have the same effect on an order made under subsection four, section seventy-three, of this Act.

(See s. 54 (1) and (2).

Recovery of contributions to penalties not exceeding five pounds per member.

(4) No member of an industrial union shall be liable in a winding-up thereof for the debts of such union to any greater amount than his entrance fee and the amount of one year's subscription, and of any call duly made under the rules of such union, except in so far as the rules of the said union may impose liabilities on the members for sickness or other benefit.\*

Limitation of liability of members.

20. The legal expenses of an industrial union in any proceedings before the industrial or other Court by or against such union, or by or against any member thereof, may be paid by the Minister, and shall

Power of Minister to defray legal expenses of industrial union.

255—B

shall

\*NOTE.—This is the present law as to liability of members of clubs; see *Wise v. Perpetual Trustee Company*, 1903, A. C., 139.



shall be a charge upon the Consolidated Revenue if, in the opinion of the Court, it is in the public interest that it or he should be or should have been a party to such proceedings.

Record of arrears of wages for two years.

**21.** Any member of an industrial union, or an industrial union on his behalf, may sue in the Court or in any other Court, for the recovery of not more than two years of arrears of wages due to him under any award or industrial agreement. No person who is not a member of an industrial union, and who was not a member of an industrial union at the date when his right of action accrued, shall be permitted to sue in any Court for more than six months of arrears of wages which ought to have been paid to him under any contract made subject to an award or industrial agreement.

Members of industrial union to be entitled to preference of employment. (See also s. 35).

**22.** (1) Members of an industrial union shall have preference in the industry or industries in respect of which their industrial union is registered upon all public works, and shall be awarded preference by the Court in respect of any other employment :

Provided that an industrial union or member thereof shall not be entitled to preference on public works, or be awarded preference by the Court, if and so long as any other industrial union is also registered in respect of such industry, or if and so long as the industrial union claiming preference is a party to or is involved in any question of industrial demarcation, nor unless the Court is satisfied that the rules of the union allow any employee in the industry to become a member of such union on payment of reasonable entrance fee and reasonable periodical subscriptions : And provided that the Court on the application of any person or industrial union interested may suspend the right to preference if from the nature, place, or intermittency of the employment, or from insufficiency of the numbers or want of skill of the persons entitled to preference, the Court should be of opinion that the right to preference should be suspended with regard to any industry.

(2)

298

(2) On and after the publication of an award or the approval by the Court of an industrial agreement when by such award or agreement preference has been granted in any industry to members of an industrial union, all persons not members of such union but by the nature of their employment qualified to be members thereof, who may then be or may subsequently become during the operation of such award or agreement employed in the said industry, shall be liable to pay in full to the said union the amount of the entrance fee and annual subscription provided by the rules of the union to be paid on account of membership in such union; and the Court or a magistrate shall, upon application made by the secretary of the union in the manner prescribed, make an order directing such persons to pay the full amount of such entrance fee and subscription to the said union: Provided that if any person so liable shall have once paid the amount of entrance fee to such union his liability hereunder shall be reduced to a liability for the amount of annual subscription only.

Contribution to funds of industrial union by non-members when union has obtained preference.

**23.** (1) If an employer dismisses or suspends from his employment any employee who is a member of an industrial union, by reason of the fact that he—

Limitation on the right of employer to dismiss an employee.

- (a) is a member of a board or an industrial union; or
- (b) has absented himself from work through being engaged in other duties as a member of a board; or
- (c) is entitled to the benefit of an award or an industrial agreement; or
- (d) claims the enforcement of the provisions of any statute or statutory regulation, award, or agreement made or entered into for the protection of employees or the regulation of conditions of labour in any industry; or
- (e) has done any act in the discharge of his duty as a member of an industrial union, which act is, in the opinion of the Court a reasonable and lawful act; or
- (f) has given evidence in good faith before a board or the Court,

the

the Court may, upon the application of the industrial union of which such person is a member, order such employer to pay a penalty not exceeding *twenty* pounds for each employee so dismissed or suspended, and may further order the re-employment of such employee by such employer on the same terms as at the time of such dismissal or suspension, when the employer shall be liable to a penalty of *five* pounds for every day upon which he shall fail to re-employ such employee. 5 10

Compensation to employees for unlawful dismissal by employer.

(2) The Court may award to each employee so dismissed or suspended any sum of money which it may think reasonable, having regard to all the circumstances of the case, by way of satisfaction or compensation for any loss of situation, wages, status, or other classification or injury suffered by the employee through or by means of the employer's action. 15

In every case it shall lie upon the employer to satisfy the court that such employee was dismissed or suspended from his employment for some sufficient reason 20 other than those above-mentioned in this section.

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### PART III.

#### INDUSTRIAL AGREEMENTS.

Power to make industrial agreements.

**24.** (1) Any industrial union may make an agreement in writing relating to any industrial matter— 25

- (a) with another industrial union; or
- (b) with an employer;

which, if it is made for a term not exceeding three years, and if a copy thereof is filed in the Court, shall upon the approval of the same by the Court, be an industrial agreement within the meaning of this Act. 30

(2) Upon application for such approval the Court may amend the said agreement.

(3) The Court shall not approve of an industrial agreement, unless it be satisfied that such agreement gives to all the employees who are parties to or bound by 35

by it, or who may become bound by it if it be made a common rule, better conditions of employment, having regard to all its terms, than are given by any Award regulating the industry or industries to which such agreement relates. If the Court be so satisfied it may exempt the parties to and all persons bound by the terms of the said agreement from all or any of the obligations imposed by such Award.

25. (1) The Court may, on the application of the Minister or any person interested, order that any industrial agreement, or term thereof, shall be a common rule of the industry or industries concerned with such limitations, conditions, and exceptions as to the Court may seem fit. And such common rule shall, subject to the right of appeal conferred by this Act, be binding on all persons, including the Crown, engaged in the industry or industries designated therein for the currency of the said agreement, or until the Court otherwise direct.

Industrial agreements may be made a common rule.

The Court may exercise this power at any time, and from time to time, during the currency of the said agreement and it shall not be necessary to the making of such order or to the validity of any industrial agreement, that an industrial dispute is or has been pending, or is threatened in the industry or industries which are affected by the said industrial agreement, or that the industrial agreement in question was made for the prevention of or in contemplation of any industrial dispute, or that there should be any other proceeding before the Court to which the applicant is or has been a party, or that the order should be ancillary to an award or judicial determination.

(2) On any application to make an industrial agreement or term thereof a common rule the Court may amend the said agreement.

(3) Any employer or industrial union may apply to the Court to be exempt from the operation of any common rule ordered under this section, and the Court on such application, or of its own motion, may grant such application, exempt any other person or industrial union from the operation of such common rule, and cancel or amend such industrial agreement.

(4)

(4) An industrial agreement may be enforced by the Court at the suit of any person interested, and no Court other than the Industrial Court or Industrial Magistrate shall have jurisdiction to entertain any proceedings for the enforcement of an industrial agreement or to give damages for a breach thereof. 5

Rescission  
and duration  
of industrial  
agreement.

**26.** An industrial agreement may be rescinded by agreement made in writing by the parties thereto and filed with the Minister, or may be varied by another industrial agreement so made and filed. 10

If not so rescinded the agreement or varied agreement shall, subject to any modification which the Court may introduce therein, be in force for the term specified, not exceeding three years, in the agreement, and unless any party thereto gives to the Minister, at least one month 15 before the expiration of such term, a notice in writing of intention to terminate the agreement or varied agreement at such expiration, the agreement or varied agreement shall continue in force until the expiration of one month after notice in writing of intention to 20 terminate it has been given to the Minister by any party thereto.

#### PART IV.\*

##### STRIKES AND LOCK-OUTS.

Strikes and  
lock-outs.

**27.** (1) Strikes and lock-outs are of two kinds— 25  
(a) authorised strikes or lock-outs;  
(b) other strikes or lock-outs.  
(2) No strike of a trade union or combination not registered under this Act as an industrial union, or by 30

\*The provisions of this Part rest upon three main principles :—

- (i) That it is no more possible to prevent strikes than it is to prevent war; because, just as there will be always disputes between nations, which cannot be settled by negotiation, so there will be always disputes in the industrial world which cannot be settled by a court.
- (ii) That a strike or lock-out involves such loss and suffering that it ought not to be entered upon until an attempt has been made to settle the matter in dispute and full opportunity has been given for deliberation.
- (iii) That it is unfair to punish as a criminal a man who is only doing his duty by his fellow employees in assisting them to obtain better industrial conditions.

by persons other than members of an industrial union, or by employees of the Crown, shall be or be deemed to be an authorised strike under this Act.

(3) An authorised strike is a strike by members <sup>Authorised strikes.</sup> of an industrial union, or by an industrial union which in either case occurs after the following provisions for securing a period for reflection and investigation have been complied with, to wit:—

10 (a) The industrial union shall have referred to the Court in the manner prescribed all matters which are in difference with the employer or which are, or are alleged to be a cause of the contemplated strike.

15 (b) Four weeks shall have elapsed since the date of filing such reference.

(c) A secret ballot of the members of the industrial union, taken in the manner prescribed before the commencement of the strike, shall have shown that a majority of such members are in favour of the institution of the strike.

20 (d) A secret ballot of the members of the industrial union, taken at such times during the progress of the strike as the Minister may direct and in the manner prescribed, shall have shown that a majority of such members are in favour of a continuance of the strike.

25 (4) An authorised lock-out is a lock-out which <sup>Authorised lock-out.</sup> occurs not earlier than four weeks after the employer concerned has referred to the Court in the manner prescribed all matters which are in difference or are, or are alleged to be the cause of the contemplated lock-out.

(5) Notwithstanding anything in this Act, any strike by an industrial union or members thereof which 35 occurs after and during the progress of any lock-out in the same industry, whether such lock-out be authorised or not, and any lock-out which occurs after or during the progress of any strike in the same industry, whether such strike be authorised or not, shall be deemed to be, 40 to all intents and purposes, an authorised strike or lock-out, as the case may be, under this Act.

Exemption from liability for an authorised strike or lock-out.

**28.** Neither an industrial union nor the officers nor members thereof nor an employer shall be liable at all in any court, either civil or criminal, for engaging in or instigating to or aiding or supporting an authorised strike or lock-out.

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Amendment of law of conspiracy when strike or lock-out is authorised.

(See English Conspiracy and Protection of Property Act, 1875).

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

Amendment of law as to civil liability of conspiracy.

(See English Trade Disputes Act, 1906, s. 1).

(2) An act done in pursuance of an agreement or combination by an industrial union or member thereof or by an employer or employers shall, if done in contemplation or furtherance of an authorised strike or lock-out, not be actionable in any Court unless the act if done without any such agreement or combination would be actionable.

Removal of liability for the inevitable consequences of an authorised strike or lock-out.

(See English Trade Disputes Act, 1906, s. 3.)

(3) An act done by an industrial union or member thereof in furtherance of an authorised strike, or by an employer in furtherance of an authorised lock-out, shall not be indictable or actionable in any court or support any claim for damages under this Act merely on the ground that it induces some other person to break a contract of employment, or that it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

**30.** No Court may grant an injunction against any person or industrial union to restrain any act which by this Act is declared to be not indictable or not actionable.

*Unauthorised strikes and lock-outs.*

Liabilities for unauthorised strikes and lock-outs.

(See also s. 22).

**31.** If any trade or industrial union, or any combination of employees, strike, or if any employer, or combination of employers lock-out, unless such strike or lock-out be authorised under this Act :—

- (i) Any person aggrieved may sue such trade or industrial union or combination of employees, or

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5 or such employer or combination of employers, for the recovery of damages not exceeding, in respect of any one strike or lock-out, one thousand pounds. The Court may hear and determine such suit: Provided that an employer shall not be liable to pay damages under this section except at the suit of an industrial union.

10 (ii) In any proceedings under this section, any act of a member of a trade or industrial union or combination of employees or combination of employers shall be deemed to be the act of the trade or industrial union or combination of employees or combination of employers of which he was at the time of committing such act a member; and it shall be no defence to any proceedings against the union or combination of which such person was a member at the time of committing such act that such union or combination did not authorise or adopt the act of such member, but (save as hereinafter mentioned) the trade or industrial union or the combination of employees or the combination of employers shall be liable in all respects in connection with such Act as if it had been the act of such trade or industrial union or such combination of employees or of employers, unless it be proved that such act, if committed by a member of a trade or industrial union or combination of employees, was instigated by or done in the interests of an employer or by his authority or was committed with the intent to injure a trade or industrial union or combination of employees, or, if such act be committed by an employer or at his instance or with his authority, unless it be proved that such act was committed, instigated, or authorised in the interests of a trade or industrial union or combination of employees, or was committed with the intent to injure an employer or employers.

Union to be responsible for the acts of its members.

(iii)



- (iii) Notwithstanding anything in this Act or in the rules of an industrial or trade union to the contrary, an industrial or trade union may expel any member who takes part in or aids or abets an unauthorised strike. 5
- (iv) An industrial or trade union or combination of employees shall be deemed to have taken part in an unauthorised strike if any member of such trade or industrial union or combination of employees has taken part in or aided and abetted an unauthorised strike, and a combination of employers shall be deemed to have taken part in an unauthorised lock-out if any member thereof has taken part in or aided and abetted such lock-out, unless such trade or industrial union or combination of employees or such combination of employers prove that such member acted contrary to a bona fide resolution of such trade or industrial union or combination of employees or combination of employers, and that the union or combination of which such person was a member honestly and at the earliest opportunity publicly repudiated his act. 10 15 20
- (v) In any proceedings to recover damages under this section against a combination of persons, not being a corporation or a trade or industrial union, the plaintiff may apply to the Court to dispense with the joinder of all the members of the combination, and the Court may appoint one or more persons who have taken part in the alleged unauthorised strike or lock-out as representative plaintiffs or defendants, and a judgment against such persons shall be deemed to be a judgment against all the members of the said combination and all other persons who took part in the said strike or lock-out, and may be enforced against any property of the said combination, and by attaching the future wages of the employee members thereof, and of any other person taking part in the said strike, in all respects as an order to pay damages or a penalty may be enforced. 25 30 35 40 (vi)

Joinder of  
representa-  
tive parties  
an enforce-  
ment of order  
to pay  
damages  
against an  
unregistered  
body.

(vi) The Court in any proceedings to recover damages may, in order to prevent a multiplicity of actions, order that all industrial unions and employers interested be joined, and may apportion the damages awarded amongst the unions and persons entitled to the same.

(vii) Subsections three and four of sections seventy-three of this Act shall apply also to the recovery of damages, and the said subsections shall be read as if the words "or damages" were inserted after the word "penalty" wherever such word occurs in the said subsections of the said section.

**32.** If an order to pay damages, or a penalty, is made against an industrial union, such union in the event of non-payment of the damages or penalty and costs may be wound-up compulsorily on the petition of any person in whose favour or on whose application the said order was made, on the same conditions and in the same manner as if the said union were a registered company under the Companies Act of 1899, except that it shall not be necessary to prove that any debt is due to the petitioning creditor other than the amount so ordered as aforesaid to be paid as damages and costs.

Winding up of industrial union by the Court.

**33.** (1) The Court may, on the application of either the Minister or of any person aggrieved or of its own motion, and either ex parte or on notice, order that the funds and property of any trade or industrial union or combination engaging in an unauthorised strike or of an employer engaging in an unauthorised lock-out be sequestered, and shall thereupon appoint a receiver of the same, who shall have all the powers of a receiver appointed by the Court of Equity.

Court may sequester funds.

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

cheques or orders are drawn upon or made payable to persons or bankers in New South Wales or elsewhere ; and any person who acts as trustee of the funds or property of such union or combination or employer, and every person who receives, or expends, or otherwise deals with such property or funds, except in accordance with an order of the Court, shall be liable to repay any such funds or any moneys received by or payable to him on his order in respect of dealings with such property into the Court, and to a penalty not exceeding *five hundred* pounds. 5 10

In any proceedings under this subsection the burden of proving that the person charged was not aware that an offence under this section had been committed shall be upon him. In any proceedings against a bank or corporation or company under this section, the manager 15 in New South Wales of such bank or corporation or company shall be deemed to be liable personally for the acts or omissions of such bank or corporation or its officers.

*Inquiry into strikes and lock-outs.*

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On report  
of a strike  
inquiry to be  
held.

**34.** (1) Upon the occurrence of a strike or lock-out, whether such strike or lock-out be authorised or not, the Court on the direction of the Minister shall, or of its own motion may, hold an inquiry under section forty, subsection two, of this Act, and report to the 25 Minister whether a strike or lock-out has in fact occurred, and whether such strike or lock-out is authorised or not, and whether employees of the Crown are taking, or have taken, part in such strike or have been or are aiding or abetting the same, and whether 30 any industrial union or member thereof is or has been aiding and abetting such strike, and whether any or what persons are or have been aiding and abetting such lock-out, and the cause or causes of such strike or lock-out, and may make any recommendation in the premises. 35 The Court in the course of such inquiry may require an industrial union to prove that it or its members has or have not been engaged in or is or are not aiding or abetting an unauthorised strike and may require an employer

403

employer to prove that he has not been engaged in or aided and abetted an unauthorised lock-out. The Minister shall submit the report and recommendation of the Court to Parliament.

5 **35.** (1) Any industrial union which engages in, or aids or abets an unauthorised strike, or which is deemed under the provisions of subsection two of section thirty-one of this Act or is reported by the Court to the Minister to have been so engaged in or to have so aided  
 10 or abetted an unauthorised strike either in its corporate capacity or by reason of the acts of one or more of its members, shall cease to have any right to preference or to enforce any award or industrial agreement, notwithstanding any provision of this Act or terms of  
 15 an award or agreement to the contrary, until the Court shall otherwise direct or until such right shall be restored by resolution of both Houses of Parliament, and shall not, nor shall any employer who has been or is engaged in or has aided and abetted or is aiding and abetting an  
 20 unauthorised lock-out, initiate or continue any proceedings before the Court while and so long as such unauthorised strike or lock-out continues.

Suspension of privileges in unauthorised strikes.

(2) The Court, of its own motion or on the application of any person or union entitled to  
 25 initiate proceedings before the Court, may suspend the operation either wholly or in part of any award or industrial agreement which affects directly or indirectly any union or person who has been or is engaged in or has been or is aiding or abetting an  
 30 unauthorised strike, and may cancel or amend any such award or agreement: Provided that notwithstanding the provisions of this section the provisions of any award or agreement which affect apprentices, juniors, women, and aged, infirm, and slow workers, shall continue in  
 35 full force and effect. The Court may fix a time and conditions at and under which an award or agreement which has been suspended, cancelled, or amended under this section shall regain its original force and effect.

(3) The Court, for the purpose of bringing the  
 40 opinion of organised labour to bear against all who are engaged in or who aid and abet an unauthorised strike,  
 may

may on the application of the Minister or of its own motion order that the provisions of the last preceding subsection shall apply and have effect in regard to any industrial union, although such union is not nor has been engaged in the unauthorised strike, and is not 5 aiding or abetting the same nor has aided or abetted it.

(4) It shall not be necessary to the exercise of its jurisdiction under this section that the Court shall have first held an inquiry under section thirty-four of this Act, but, if such inquiry has been or is being 10 held, the Court may use as prima facie evidence any information which it may have obtained in the course of such inquiry for the purpose of informing its conscience as to the making of any order under this section, or for determining whether such order shall be 15 repealed or modified.

Strikes by  
employees of  
the Crown.

**36.** Any employees of the Crown who appear from such report to have been or be engaged in a strike, whether authorised or not, shall from the date named in such report, or if no date be named then from 20 the date of the presentation of the report to the Minister, lose any rights of seniority, promotion, pension, gratuity, and all other rights and privileges whatsoever to which by the terms of their appointment or the rule of the service or any Act of Parliament they may be or may 25 become entitled, including rights conferred upon them by sections twenty-two and eighty-two of this Act or by any award or industrial agreement, and the same shall not be restored except by the order of the Court or by 30 a resolution of both Houses of Parliament.

PART V.

THE INDUSTRIAL COURT.\*

Constitution of the Court.

37. (1) The jurisdiction under this Act and any Industrial Court to exercise industrial jurisdiction of Supreme Court. 5 Act amending the same, and any other subsequent Act which may confer jurisdiction on the Industrial Court, shall be the industrial jurisdiction of the Supreme Court.

10 (2) The industrial jurisdiction of the Supreme Court shall be vested in and exercised by three Justices of the said Supreme Court, who shall constitute a Court to be known as and in this Act termed "The Industrial Court," and who shall be appointed by the Governor to be Justices of the said Industrial Court. One of such Justices

\* The provisions of Part V of the Act are modelled upon the Bankruptcy Act of 1898, re-enacting similar provision in the Bankruptcy Act of 1887. Previously to the passing of the latter Act, the jurisdiction in insolvency was vested in an inferior tribunal, presided over by the Chief Commissioner of Insolvent Estates. The Bankruptcy Act of 1887 transferred this jurisdiction to the Supreme Court, and directed that a Judge of this Court should be appointed to exercise the new Bankruptcy Jurisdiction. Mr. Deffell, who had been Chief Commissioner under the old Insolvency Acts, was appointed by the Governor to be a Judge of the Supreme Court and Judge in Bankruptcy as provided by the Act. The Government considers that a Court which is charged with the duty of regulating all industries within the State, and whose findings must therefore affect the welfare of all employers and employees, should not be inferior in status to a tribunal which has for its principal duty the distribution of the property of an insolvent among his creditors. As was pointed out by Mr. Justice Heydon in his reply to the Chief Justice (Sydney Morning Herald, March 10, 1915), "Whereas in other Courts most cases affect only the individual concerned, in the Industrial Arbitration Court the same cases affect large, sometimes very large, classes, and very materially, although incidentally, the whole community."

In this connection reference may be made to a passage in the judgment of the Chief Justice of the Commonwealth in Whybrow's case (10 C.L.R., p. 282): "Parliament has thought fit to provide for the appointment of a judge of very large powers, and to call his Court a Court of Arbitration. We are not concerned with the propriety or accuracy of such a designation. But it is clear that the nature or authority of the tribunal authorised by the Constitution cannot be altered by giving it a particular name or prescribing a particular mode of appointment." By conferring the jurisdiction under this Bill on the Supreme Court and making it exercisable by a division of the Supreme Court many difficulties are avoided.

Although the making of the Industrial Court a branch of the Supreme Court gives an appeal to the High Court under the Constitution, yet it is a rule of law that appeals from the exercise of a judicial discretion will not be allowed, unless the discretion is exercised illegally or perversely. The sections of the Act are carefully drawn, to leave as much possible to the discretion of the Court. In practice, it is believed, that as the Act is drawn no appeal can lie to the High Court except on the question of jurisdiction; and it is obvious that if the Court (for example) sentenced a man to death, an appeal ought to lie for excess of jurisdiction.

Justices shall be appointed by the Governor to be President of the said Industrial Court, which shall be a superior Court of Record, and have a seal, which shall be delivered to and kept by the President, and be judicially noticed. For the purpose of constituting such Industrial Court, the Governor, notwithstanding anything contained in the Supreme Court and Circuit Courts Act of 1900 and the Supreme Court and Circuit Courts (Amendment) Act of 1912, may appoint three additional Judges of the Supreme Court, and may from time to time appoint other additional Judges of the Supreme Court to fill any vacancy in the office of Justice of the Industrial Court. The qualification of such additional Judges shall be the same as the qualification of a Justice of the High Court of Australia.

Common-wealth Judiciary Act, s. 5.

(3) The President and each Justice so appointed as aforesaid may exercise and sit in any jurisdiction of the Supreme Court, and shall have in all respects and to all intents and purposes the rights, privileges, powers, and jurisdiction of a Judge of the Supreme Court in addition to the rights, privileges, powers, and jurisdiction conferred by this Act, and shall hold office as Judges of the said Supreme Court during good behaviour, and be paid such salary, remuneration, and allowances as the Governor may direct, which shall not be diminished or increased during their respective terms of office or be less than the salary and remuneration and allowances of a Judge of the Supreme Court, nor in respect of the salary of the President more than a sum equal to five hundred pounds a year less than the annual salary of the Chief Justice ; and upon such direction the said payments shall become a charge upon the consolidated revenue. The Justices of the said Industrial Court shall among themselves and among the other Judges of the Supreme Court have precedence according to the time and order of their appointment, and the President shall have precedence next after the Chief Justice. The President and each Justice of the said Industrial Court shall hold office as President and Justice of the said Court for seven years from the date of their respective appointments, and shall be eligible to be reappointed by the Governor as such President or Justice for a further period of seven years.

The Commonwealth Conciliation Arbitration Act, (1904-11), s. 12, has the same provision.

(4)

405

(4) The Governor may appoint any person qualified to be the President or Justice of the Industrial Court as acting President or acting Justice thereof during such period as the President or a Justice may be absent from his duties upon leave of absence or from illness or other cause. During such period the acting President or acting Justice shall have the powers, authorities, immunities, and privileges of the President or a Justice of the said Court, and shall fulfil the duties and receive the salary herein provided for the President or a Justice of the said Court.

Power to appoint acting judges. (Supreme and Circuit Court Acts (Amendment) of 1912, s. 4).

**38.** The Governor may from time to time appoint any person recommended to the Minister by the President to be an associate Justice of the Court for the purpose of hearing and determining any specified matter (subject to appeal as provided by this Act and the rules thereunder), and such Justice shall, while acting under such appointment, have in the exercise of his jurisdiction under this Act the jurisdiction and powers of a Justice of the Court.

Associate judges.

Any person appointed to be an associate Justice shall be paid such remuneration and allowances and be granted such rights and privileges as the Governor may direct.

**39.** The Judge of the Court of Industrial Arbitration shall for the purpose of determining his rights as to a judicial pension be taken to have been appointed a Judge of the Supreme Court on the day of his appointment to be President of the Court of Arbitration under the Industrial Arbitration Act, 1901, in the year one thousand nine hundred and five, and to have been and remained a Judge of the Supreme Court from that date to the date of his ceasing to hold any judicial office.

Status of the Judge of the Court of Industrial Arbitration.

*Jurisdiction of the Court.*

**40.** In the exercise of its jurisdiction under this Act the Court shall have all the powers and jurisdiction of the Supreme Court in addition to the powers and jurisdiction conferred by this Act, and may hear and determine according to equity and good conscience all questions

Jurisdiction (see Bankruptcy Act of 1898, s. 134).



questions arising under this Act, whether of law or fact, including any question which may be brought before it or which it may deem it expedient to hear and determine for the purpose of regulating an industry, and any question arising out of an industrial matter or involving 5 the determination of the rights and duties of any person or Industrial Union in respect of an industrial matter, and any question which it may deem expedient to hear and determine in respect of an industrial matter, and more particularly, but without limiting the generality of the 10 above provisions, shall have full powers and jurisdiction—

- (1) upon reference by an Industrial Union or employer or the Minister or of its own motion to regulate the conditions of any industry by an Award; 15
- (2) on the application of any person interested or of its own motion or by direction of the Minister to hold an inquiry into or relating to any industrial matter and report the result of such inquiry to the Minister; and for the purposes 20 of any such inquiry the Court shall have and may exercise all the powers of a Royal Commission under the Royal Commissioners Evidence Act of 1901, or any Act amending the same, in addition to the powers of the Supreme 25 Court and those conferred by this Act;
- (3) at the direction of the Minister or on the application of an employer or an Industrial Union to codify into one Award, subject to such amendments as it may deem expedient to make, 30 all awards binding or affecting any employer or class or section of a class of employers in any industry or the members of an Industrial Union employed by the same employer or class or section of employers when such employer or 35 class or section of employers or such members is or are subject to more than one Award;
- (4) to define and declare the relative rights and mutual duties of employers and employees according to what in the opinion of the Court 40 should be the standard of fair dealing between an average good employer and an honest and competent employee. Nothing

406

Nothing in this Act shall be interpreted to limit by implication the jurisdiction conferred upon the Court by this Act.

5 **41.** (1) The jurisdiction of the Court, subject to the provisions of this Act and of the rules made thereunder, may be exercised by any Justice sitting in Chambers.

Jurisdiction in Chambers. (Commonwealth Judiciary Act, s. 16.) Reference to Full Court.

(2) Any Justice sitting alone whether in Court or in Chambers may state any case or refer any question for the consideration of the Court, and such Court may thereupon hear and determine the case or question referred, or may refer the same back with directions to the said Justice.

15 **42.** The Court shall have full power by order or by general rule to distribute its business among the Justices of the Court and to delegate all or any of its jurisdiction to one or more Justices thereof.

Distribution of business among justices.

For the purpose of adjournment a single Justice or associate Justice may constitute the Court.

20 **43.** The Court may at any time by general rule or special order remit—

Power to remit.

25 (1) to a board for inquiry and report, with or without directions, any industrial matter included in any reference, motion, or summons, or which the Court considers it is desirable to have included in any reference, summons, or motion for investigation, or upon which the Court desires information for the purpose of making an award or order, or giving a direction ; and the Court shall inform its conscience by the result of such inquiry, but shall not be compelled to accept any conclusion arrived at or recommendations made by such board, and all persons interested in such conclusions and recommendations shall be entitled to be heard before the Court. Any remission or reference made as aforesaid may be withdrawn by the Court at any time and whether the board has concluded its work or otherwise ;

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40 (2) to a magistrate any proceedings for the recovery or enforcement of penalties incurred under this Act or for the recovery by an industrial union of

of fines, levies, subscriptions, or contributions from its members or of claims under section twenty-two, subsection two, or of claims by a member of an industrial union for arrears of wages due to him under any award or industrial agreement, or claims by an industrial union for contributions from another industrial 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.

(See below,  
s. 75.)

- (3) Provided that no penalty incurred by a member of an industrial union shall be enforced against the industrial union of which such person is a member except by order of the Court or a Justice thereof.

Judgment  
and execu-  
tion.

**44.** The Court in the exercise of its jurisdiction under this Act may enforce its own judgments, decrees, findings, orders, directions, and awards, and may enforce industrial agreements, and for these purposes may make and pronounce all such judgments and make such orders and awards or give such directions as may be necessary for doing complete justice in any proceeding before it, and for the execution of any such judgment and decrees or the enforcement of any order, award, finding, direction, or industrial agreement, and may direct the issue of any writ or process of the Supreme Court or impose and enforce any penalty authorised or prescribed by this Act or the rules made thereunder in the same manner as a decree, finding, order, direction, or judgment of the Supreme Court is enforced, and the Prothonotary, Master in Equity, Sheriff, Bailiffs, and other officers of the Supreme Court and District Court and Courts of Petty Sessions shall be deemed to be officers of the Court and shall exercise the powers and perform the duties prescribed by any rules of Court made under this Act.

Enforcement  
of orders and  
awards.  
Act No. 59,  
1901.

Contempt of  
Court  
(Judiciary  
Act, s. 24).

**45.** The Court shall have the same power to punish for contempt of its power and authority as is possessed at the commencement of this Act by the Supreme Court.

**46.**

407

- 46.** The Court and any Justice or associate Justice thereof shall have jurisdiction to award costs in all matters brought before such Court or Justice, including matters dismissed for want of jurisdiction; but no costs shall be allowed of any counsel, solicitor, or agent except on an appeal to the Court or unless, in the opinion of the Court or the trial Justice, it is or was in the interest of justice that counsel, solicitor, or agent should be or should have been heard.
- 47.** (1) The Court may by rules prescribe in what cases and under what conditions, and at the instance of what person, an appeal shall lie to it from any finding, order, judgment, ruling, or award of a single judge or an associate judge, whether such judge is sitting under original or delegated authority.
- (2) Any justice may sit on the hearing and take part in the decision of any appeal from himself, provided that an associate justice sitting on an appeal from himself shall not take part in the decision.
- (3) An appeal shall lie to the Court from any decision or finding of a Magistrate acting under the powers conferred by this Act.
- (4) Every appeal under this Act shall be by way of re-hearing, and the Court may affirm, revise, or modify the judgment, order, award, or direction 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 trial Judge or Magistrate with or without directions and whether for report to the Court or for determination.
- 48.** (1) Save as aforesaid, every finding, order, judgment, ruling, or award of the Court shall be final and conclusive, and shall not be impeachable for any informality or want of form, or be appealed against, reviewed, quashed, or in any way called in question in any Court on any account whatsoever.
- (2) Proceedings in the Court shall not be removable by certiorari, and no writ of prohibition shall be issued, and no injunction shall be granted by any Court other than the Industrial Court, in respect of or to restrain

Costs (Judiciary Act, s. 26).

Appeals.

Judge appealed against may sit on appeal.

Appeals to be by way of re-hearing.

Decisions of Court to be final.

Not to be removed by certiorari

restrain proceedings under any award, order, proceeding, or direction of the Court relating to any industrial matter or any other matter which, on the face of the proceedings, appears to be or to relate to an industrial matter or which is found by the Court to be an industrial matter. 5

or challenged.

(3) The validity of any proceedings or decision of a board, or of a chairman of a board, shall not be challenged, except as provided by this Act.

Court may control its judges and officers.

**49.** The Court may grant an injunction against or a mandamus to any judge or officer of the Court, or any board or industrial magistrate. 10

Further powers of court as to procedure.

**50.** The Court may—

- (a) at any time rescind or vary its own orders, findings, judgments, directions, and awards, and re-open any reference or proceeding; 15
- (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; 20
- (c) sit in any place for the hearing and determining of any matter lawfully before it;
- (d) adjourn any proceeding 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; 25
- (f) at any stage of the proceedings of its own motion, or on the application of any of the parties, and upon such terms as it thinks fit— 30
  - (i) direct parties to be joined or struck out;
  - (ii) amend or waive any error or defect in the proceedings;
  - (iii) extend the time within which anything is to be done by any party, whether within 35 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 the Court, an amicable settlement can and should be brought about; 40
  - (i)

408

- (i) at any time withdraw from the consideration of a board any matters remitted to it and conduct an inquiry into such matters itself;
- 5 (j) take evidence either orally or on affidavit, and summons witnesses to testify and produce documents and grant discovery and inspection of documents:
- 10     Provided that no person shall be required to produce his books or be questioned as to their contents in any proceedings before a board, or a Justice, or a Court except by order of the Court; and such books, when produced, shall not, unless the person producing them, or on whose behalf they are produced, contends that
- 15     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, be inspected by
- 0     anyone except the President or Judges of the Court;

(k) and generally give such directions as to procedure as it may deem necessary. Power to make general rules.

**51.** (1) The Court or the President and any Justice thereof (other than an associate Justice) may, subject to this Act, make general rules—

- (a) regulating the practice, procedure, and forms under this Act;
- 30 (b) prescribing the powers, duties, and rights of any officer of the Court;
- (c) for the making and enforcement of its awards, judgments, orders, and directions, and the making and enforcement of an industrial agreement;
- 35 (d) regulating the distribution of business between the judges of the Court and delegating the jurisdiction of the Court to a Judge thereof, or as permitted by this Act and Magistrates;
- (e) providing for the payment of witnesses' expenses; and
- 40 (f) generally for giving effect to the provisions of this Act and the rules made thereunder.

(2)

(2) Except where otherwise provided by this Act or the rules thereunder, the practice of the Supreme Court in equity shall apply to proceedings under this Act.

(3) Non-compliance with any rule shall not make any proceeding void unless the Court so directs.

Power to  
declare  
general  
rulings.

**52.** (1) The Court may from time to time declare general rulings relating to any industrial matter for the guidance of suitors before it and of boards and in order to prevent a multiplication of inquiries into the same matters.

Which shall  
be prima facie  
bidding.

(2) Such declarations shall be prima facie binding as judgments of the Court upon the Court and any board or magistrate.

Instances of  
such rulings.

(3) Without limiting the generality of the power conferred by the two immediately preceding subsections the court may from time to time make declarations as to—

- (a) the cost of living ;
- (b) the standard of living ;
- (c) the minimum rate of wage to be paid to persons of either sex ;
- (d) the standard hours :

Provided that the minimum wage of an adult male employee shall be not less than is sufficient to maintain a well-conducted employee of average health, strength, and competence, and his wife and a family of three children in a fair and average standard of comfort, having regard to the conditions of living prevailing among employees in the industry in respect of which such minimum wage is fixed, and provided that in fixing such minimum wage the earnings of the children or wife of such employee shall not be taken into account : And provided that the minimum wage of an adult female employee shall not be less than is sufficient to enable her to support herself in a fair and average standard of comfort, having regard to the nature of her duties and to the conditions of living prevailing among female employees in the industry in respect of which such maximum is fixed : And provided that the hours and times fixed by such directions shall not exceed in duration forty-eight hours per

per week, or eight and three-quarter hours upon each of five days of the week and four and a quarter hours upon the sixth day of the week, unless the Court shall certify that a greater number of hours in any particular  
 5 industry should, for reasons affecting the public interest, be so fixed; and provided that the working hours of all industries now working forty-eight hours per week, or less, either under awards or by established custom, and all industries in respect of which forty-eight hours in  
 10 future may be conceded by award, shall not be increased except by Parliament; and provided that in all underground occupations the normal working days shall not exceed eight hours from bank to bank, and provided further that the normal working days of employees of the  
 15 Crown shall not exceed eight hours per day from Monday to Friday inclusive and four hours on Saturday.

**53.** The Court and, on being authorised in writing by the Court, any member or officer of the Court or any other person may at any time enter any building, mine,  
 20 mine-workings, ship, vessel, place, or premises of any kind whatsoever, 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 thing is taking or has taken place, which has been made the subject of a  
 25 reference to the court, and inspect and view any work, material, machinery, appliances, or article therein.

Court's right of inspection.  
 Act No. 59, 1901.

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

*Proceedings before the Court.*

**54.** (1) Proceedings may be initiated before the Court by reference, motion, or summons, and by an  
 35 industrial union, a member or officer thereof, an inspector or honorary inspector, an employer, or the Minister.

Initiation of proceedings.

(2) The Court of its own motion may initiate any proceedings and summon before it such persons as  
 40 it may deem necessary. (3)



(3) In any proceedings before it the Court may dispense with the joinder of any person, or may join as applicant or respondent all persons who, in the opinion of the Court, ought to be before it.

(4) The Court or a board may inform itself 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.

(5) No proceedings in the Court shall abate by reason of the death of any party, and such proceedings shall by order of the Court continue upon such terms and conditions as the Court may think fit.

*The regulation of industries by awards.*

Power to regulate industries.

**55.** (1) Upon reference by an industrial union or employer or the Minister, or of its own motion, the Court may regulate the conditions of any industry by an award, and for this purpose may exercise all the powers and jurisdiction conferred upon it by this Act, and all the powers and jurisdiction of the Supreme Court, and may give a retrospective effect to the whole or any part of such award.

Effect of awards.

(2) Every award shall have the force of law and be subject to the right of appeal conferred by this Act, and to such conditions and exemptions as the Court may declare, and shall be binding on all persons, including the Crown, engaged in the industry or industries designated therein, and for the period specified therein or until the award be varied or rescinded by the Court.

(3) An award made with respect to employees of the Crown shall have effect notwithstanding the provisions of the Public Service Act, 1902, or any Act amending the same, or of any other statute regulating the conditions of employment of such employees.

Parties interested entitled to be heard.

**56.** (1) Before making an award the Court shall give an opportunity in the prescribed manner to any person or industrial union interested to be heard by the Court.

(2) Any person or industrial union who is affected by any order, award, or direction of the Court may, whether

410

whether such person or union was or was not a party to the proceedings in which the order, award, or direction complained of was made, apply at any time to the Court to be relieved from any obligation imposed by such order, award, or direction.

**57.** Without limiting the generality of the powers of the Court the Court may make an award with reference to an industry— Powers of court on hearing.

- 10 (a) fixing the quantum of work or service to be done, and the lowest prices for their work or rates of wages payable to employees, other than aged, infirm, or slow workers: Provided that in fixing rates of wages in any industry the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit to their employer: Provided further that in fixing the rate of wages in any industry the Court shall be entitled to consider the prosperity of the industry and the value of an employee's labour to his employer in addition to the standard of living, but in no case shall a rate of wages be paid which is lower than the minimum wage declared by the Court;
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- 25 (b) fixing the number of hours and the times to be worked in order to entitle employees to the prices or wages so fixed;
- (c) fixing the lowest rates for overtime and holidays, and other special work, including allowances as compensation for overtime, holidays, and other special work;
- 30
- (d) fixing the number, or proportionate number, of women to men, of juniors to adult workers, and of apprentices and improvers to journeymen in any industry; and fixing in respect of women workers, juniors, apprentices, and improvers in an industry the quantum of work to be done, and the number of hours and the times to be worked by them, and the lowest prices and rates payable to them for ordinary time, overtime, and holidays, notwithstanding in
- 35
- 40

- in the case of apprentices the existence of current indentures or contracts of apprenticeship; and provided that in the case of apprentices, the increase in such prices or rates fixed for the three and other later years of the apprenticeship may be payable contingently upon the passing by the apprentice of any prescribed tests, or the obtainment by him of any prescribed certificates of tuition or competency; 5
- (e) rescinding or varying any award, judgment, decree, direction, order, or industrial agreement; 10
- (f) prescribing, subject to the conditions of section twenty-two of this Act, in order to secure that preference be effective— 15
- (i) that all persons employed in the industry be employed through the agency of the Minister or the secretary of an industrial union;
- (ii) that notice be given to the Minister and the secretary of an industrial union of any vacancy among employees in order that the same may be filled by a member of the said industrial union;
- (iii) any other direction as to the method of employment or otherwise in order to secure that full effect be given to any award of preference; 25
- (g) abrogating or varying contracts for labour, including contracts of apprenticeship, made at any time before or after the commencement of this Act, subject to such conditions and such exemptions as the Court thinks just; 30
- (h) giving such retrospective effect as may be right, fair, and honest, or as may be consented to by the parties to the whole or any part of its award; 35
- (i) modifying or altering the provisions of the Early Closing Act, 1899, the Early Closing Amendment Act, 1900, the Early Closing Hairdressers' Shops Act, 1906, Saturday Half Holiday Act, 1910, 40

1910, the Early Closing Amendment Act, 1910,  
or any Acts passed in extension, consoli-  
dation, or amendment of such Acts, to any  
effect deemed proper or convenient, and in  
particular so that any shop, business, or person,  
to which or to whom such provisions are  
applicable, may be wholly or partly relieved  
of the incidence of such provisions; and  
so that information for offences against any of  
the said Acts or for breaches of any regu-  
lation made thereunder may be laid within  
a period not exceeding twelve months from  
the commission of any such offence; and  
declare that the place in which any industry  
is carried on shall be a shop of a certain  
class within the meaning of the said Acts to  
the intent that the statutory provisions in  
their original or any modified or altered form  
which to the said court may seem expedient  
shall apply to such industry, and every person  
employed in or in connection therewith, and  
to the further intent that where an award  
fixes times at which employees shall cease  
work in shops of that class such shops shall,  
whether employees are or are not employed  
therein, be closed at such times as may be fixed  
by such award; and from time to time revoke  
in whole or in part any such modification,  
alteration, or declaration, whereupon and  
pending the making of further awards or  
orders the statutory provisions shall revive and  
again operate if the revocation be complete  
without modification, alteration, or extension  
of any kind, or if the revocation be partial,  
subject to such conditions and limitations as  
may be expressed ;  
(j) directing that a copy of an award or industrial  
agreement be exhibited in a conspicuous and  
convenient place on the premises of any  
employer affected thereby ;  
(k) and generally dealing with determining and  
regulating any industrial matter. The

The Court in any proceedings before it may by order, judgment, or direction do anything which it is authorised by this Act to do by an award.

Exemption of  
charitable  
institutions.

**58.** Where an institution carried on wholly or partly for charitable purposes provides for the food, clothing, lodging, or maintenance of any of its employees or any of its inmates who are deemed to be employees, the Court in any award as to the wages of such employees or inmates shall make due allowance therefor. The Court may exempt such institution from all or any terms of the award, where the food, clothing, lodging, and maintenance provided by the institution, together with the money (if any) paid by the institution to such employees or inmates as wages, are at least equal in value to the value of the labour of such employees or inmates.

Slow  
workers.

**59.** (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 Court, and any inspector may apply to the Court on his or her behalf for a permit in writing to work for less than the wage so prescribed.

(2) The Court or any industrial or stipendiary or police magistrate to whom the application may have been remitted specially or by rules of the Court 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 tribunal 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 Court except on the ground that the trade or calling concerned is one in which no such permit should be granted.

(6)

(6) Any person paying or receiving a less sum than that authorised by such permit shall be liable to a penalty as for a breach of an award.

PART VI.

5

INDUSTRIAL BOARDS.

**60.** (1) Industrial boards may be constituted by the Minister on the recommendation of the Court for the purpose of making, after inquiry, recommendations to the Court as to the regulation of an industry by an award, and of inquiring into and reporting to the Court on any matter remitted by the Court. Constitution of Boards.

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

(3) The Minister 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 Minister 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 Court; 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 court, no suitable employer or no suitable employee in the industry has been nominated

or

or is willing to act on the board on behalf of the employers or employees, as the case may be, the Court 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 Minister shall appoint such person. 5

(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 Governor may declare his office vacant, and thereupon such member shall cease to hold office. 15

Members of  
Boards.

**61.** (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— 20

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 25

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. 30

(2) The Minister, 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. 35

(3) Subject to the above provision, the members of a board shall hold office until the expiration of three years from the date of their appointment, and then shall cease to hold office: Provided that a member may resign his office. 40

(4)

(4) 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.

5 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.

10 (5) Where, from any cause, a member of a board ceases to hold office, the Minister may appoint a duly qualified person, who shall be recommended by the court, to his office for the residue of the period for which such member was appointed.

15 (6) 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.

20 **62.** 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 pur-  
porting 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,  
25 and had power and jurisdiction to act in such office, and such appointment shall not be challenged for any cause.

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

30 **64.** The Court 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.

35 **65.** A board may, on remission to it for inquiry and report of any industrial matter by the Court, without directions—

- (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 ;
- 40 (d) exercise, in respect of witnesses and documents and persons summoned or giving evidence before



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) 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 Court to make awards should in the opinion of the board be exercised.

Evidence.

**66.** (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.

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

Examination  
of witnesses.

**67.** At any meeting of a board, unless otherwise provided in this Act,—

- (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.

**68.**

414

**68.** 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.

**69.** (1) Proceedings before a board shall be commenced only by remission to the board by the court.

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.

**70.** A board, or any two or more members thereof authorised by the board under the hand of its chairman, 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.

Power to inspect premises.

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.

**71.** (1) The Court may at any time itself conduct any investigation or inquiry which has been referred to a board, and upon intimation being given to this effect by the registrar 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 Court 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 Court may at any time again refer to the board any matter arising in such investigation 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 Court may make general rules, regulating the practice and procedure and the forms to be used before Boards.

## PART VII.

## BREACHES OF AWARDS AND OTHER OFFENCES.

Action for  
moneys due  
under awards.

**72.** (1) Where an employer employs any person to do any work for which the price or rate has been fixed by an award, order, or industrial agreement, whether made under the repealed Acts or this Act, or by a permit under section fifty-nine of this Act, he shall pay in full in money to such person and without any deduction, whether on account of the loan or hire of tools, or the supply of material, or otherwise, except such as may be authorised by such award, order, or agreement, the price or rate so fixed.

(2) Such person may, if a member of an industrial union, and notwithstanding that he may not have been or be of age at the time when such money became due or at the date of the application next hereinafter mentioned, apply himself or the industrial union to which he belongs may apply on his behalf within two years after any of such money has become due to the Court for an order directing the employer to pay the full amount of any balance due in respect of such price or rate. Such order may be so made notwithstanding any smaller payment or any express or implied agreement to the contrary. The Court, or if the Court remit the matter to a magistrate the magistrate, may order such payment to be made on any terms it or he thinks just, and may award costs to either party, and assess the amount of such costs.

*Recovery of penalties.*

Penalties.  
See s. 54.

**73.** (1) Whoever commits a breach of an award or industrial agreement whether by contravention or non-observance of the same shall be liable to a penalty not exceeding *fifty* pounds, and whoever disobeys an order of the Court which imposes a penalty for disobedience thereto, and whoever commits a breach, whether by contravention or non-observance of any provision of this Act or the rules made thereunder, which provides for a penalty, shall be liable to pay the penalty so imposed

or

415

or provided for. Proceedings for the enforcement of a penalty may be taken by any person or union entitled to initiate proceedings before the Court. Any order to pay a penalty shall have the effect of and be  
5 enforced as a judgment of the Court. Any order to pay a penalty, which is made against the Crown or against any employer of employees of the Crown within the meaning of this Act, may be enforced, if the Court so direct against any officer of the Crown or of such  
10 employer as well as against the Crown or such employer. All penalties recovered shall be paid into the Consolidated Revenue.

(2) An order to pay a penalty made against an employee who was a member of an industrial union  
15 at the date when such penalty was incurred shall be enforceable only against such union, unless it is proved, either in the course of the proceedings to enforce such penalty or on motion of such union, that the breach by such employee was committed  
20 at the instigation of or in the interests of an employer or with the intent to injure or prejudice an industrial union. On such proof being given the Court shall direct that the penalty be enforced only against such employee, and may impose a penalty not exceeding  
25 *one hundred* pounds on such employer.

(3) Any industrial union which has become liable to pay a penalty, either in respect of its own act or omission, or in respect of an act or omission of a member may, notwithstanding anything in its  
30 rules to the contrary and shall on the order of the Court make a call upon its members not exceeding five pounds for each member in order to pay such penalty either in one sum or by instalments as the Court may direct.

(4) Every judgment or order of the Court  
35 for the payment by an industrial union, or trade union, or combination of employees of a penalty, or contribution, or money, unless the Court otherwise direct, shall impose a charge by way of contribution up to an  
40 amount not exceeding five pounds per head upon any moneys which are or may become due to any member of  
the

the said industrial union, trade union, or association from his then or any future employer, including the Crown, for wages or remuneration in respect of work done or to be done.

The Court may order that the payment of the contribution shall be in one sum or in instalments, and on the making of such order an employer of any person in respect of whose earnings such order has been made shall from time to time pay such moneys into Court as they become due, subject to a penalty of *twenty* pounds, in satisfaction of the charges imposed by such order. No assignment or pledge of wages, or moneys due, or to become due in respect of work done or to be done, whether such assignment or pledge has been made before or after the date of such order, shall have any effect to defeat or affect the charge by way of contribution imposed by this Act. 5 10 15

(5) An employee who receives from an employer or from anyone on his behalf, and any employer or person on his behalf who pays to an employee a less remuneration than such employee is entitled to under any award or industrial agreement, shall be deemed to commit a breach of such award or industrial agreement. 20

(6) Any employee who in pursuance of an express or implied agreement with an employer or with any person on behalf of an employer, receives or agrees to receive, or authorises another person to receive on his behalf a less remuneration than that to which he is entitled under an award, industrial agreement, or permit under section fifty-nine of this Act, and such person so authorised as aforesaid and such employer or person acting on his behalf, shall be guilty of a conspiracy to defeat the operation of this Act: Provided that no prosecution shall be initiated under this subsection without the leave of the Court nor at the instance of any union or person who is not entitled to initiate proceedings under this Act. 25 30 35

(7) Any employee who returns or agrees to return any portion of the remuneration paid to him in accordance with the terms of an award, agreement, or permit 40

permit under section fifty-nine shall be deemed for the purposes of this section to have received a less remuneration than was due to him under such award, agreement, or permit.

- 5 (8) When it appears in any proceeding that a breach of an award or industrial agreement has been committed by an employer by the non-payment in full and in accordance with the terms of an award or agreement of the wages or remuneration due to an employee, the Court may  
10 require such employer to prove that he has paid in full during a period not exceeding one year immediately preceding the initiation of the said proceeding to all and each of his employees the wages and remuneration to which they were entitled under the said award or agreement,  
15 and in accordance with the terms thereof. And the Court may order that any arrears of such wages or remuneration be paid into Court to be distributed by the registrar among the employees who were entitled thereto according to the terms of such award or agreement.  
20 Every such order shall have the effect of a judgment of the Court in favour of any employee entitled to any of the moneys so paid into Court for the amount of the arrears unpaid to him under such award or agreement.
- 25 (9) Where an order to pay a penalty is made against any person, or trade or industrial union, or association of employees or of employers, or against a member of any such union or association, or against an employer, and the Court is of opinion or is informed  
30 by the magistrate to whom the case has been remitted that the breach was committed by the wilful act or default of any such person or union, or association or employer, or of any member of any such union or association, the Court may on motion or ex parte, and in  
35 addition to any other order grant a writ of injunction to restrain such person or union, or association or employer, or member from continuing the said breach, or from committing further or other breaches of the award or industrial agreement under a penalty not exceeding *one*  
40 *thousand* pounds.

(10) Subsections two and three of section thirty-one shall apply also to proceedings to enforce penalties, and subsection two thereof shall be read as if the words "or to enforce penalties" were inserted after the words "in any proceedings under this section," and subsection three thereof shall be read as if the words "or who has been ordered to pay a penalty" were inserted at the end of the said subsection.

(11) Any person who is aggrieved by any Act of an industrial union or of a trade union or of employees acting in combination or of an employer or combination of employers shall have the same right to sue for damages such industrial or trade union or combination of employees or combination of employers for damages as is given by section thirty-one of this Act to any person aggrieved by an unauthorised strike or lock-out, and the provisions of section thirty-one shall apply, mutatis mutandis, to any proceedings under this subsection.

Copies of award to be exhibited and pay-sheets kept.

**74.** (1) Every employer in an industry in respect of which an award or an industrial agreement is in force shall keep, or cause to be kept, from day to day and at the place where his employees in such industry are working, in the manner and to the effect prescribed, time-sheets and pay-sheets of such employees, correctly written up in ink. If he fails to carry out any of the requirements of this section he shall be liable to a penalty not less than *one* pound and not exceeding *ten* pounds.

(2) A copy of any award, whether made under the repealed Acts or this Act, shall be exhibited and kept exhibited by every employer carrying on an industry to which it relates, at the place where the industry is carried on, so as to be legible by and easily accessible to his employees. If such employer fails to carry out the provisions of this subsection he shall be liable to a penalty not less than *one* pound and not exceeding *ten* pounds.

PART VIII.

CONCILIATION COMMITTEES.

- 75.** (1) The Minister may, in the manner prescribed, constitute for any district in which an industry is being carried on a conciliation committee consisting of two or four members, as the Minister may determine, and to be appointed by him, one half in number of whom shall be nominated by the employers and the other half nominated by the employees, and a chairman.
- 10 The chairman shall be chosen by the unanimous agreement of the other members, but if no such agreement is arrived at, or if the chairman so chosen is unable or refuses to act, he shall be appointed by the Governor.
- (2) Such of the provisions of sections sixty-two, sixty-three, sixty-four, and sixty-five, as relate to members of boards shall, so far as applicable, and subject to the provisions of this section, apply to any member of a committee established under this section except the judge.
- 76.** (1) Any such committee shall meet on being summoned by its chairman, as prescribed, or at the request of the Minister, and shall inquire into any industrial matter in connection with the industry for which it has been constituted.
- 25 (2) The chairman shall preside at all meetings of a committee, and shall endeavour to induce the other members to come to an agreement, but shall not take any part in the decisions of the committee.
- 77.** If such agreement is come to, it shall be reduced to writing and signed by the other members on behalf of the employers and the industrial unions concerned. Such agreement on being certified by the chairman as prescribed shall be filed, and shall have an effect as an industrial agreement between such employers and unions.

Constitution of conciliation committee.

Duties of committee.

Agreement if arrived at, to be an industrial agreement.

*Special commissioner.*

- 78.** (1) There shall be a special commissioner, who shall be appointed in that behalf by the Minister.
- (2)

Powers of special commissioner.



(2) Such commissioner may require the attendance of any persons to meet in conference whenever any question has arisen that in his opinion might lead to a lock-out or strike; or he is of opinion that a preliminary or temporary agreement should be made before the matter is submitted to the court. At such conference the commissioner shall preside and endeavour to induce the parties to come to an agreement. 5

(3) If any person so required does not attend in conference as aforesaid he shall be liable to a penalty not exceeding *fifty* pounds. 10

## PART IX.

### GENERAL AND SUPPLEMENTAL.

Conditions of employment not to be varied pending proceedings before Court or board.

**79.** During any proceedings before the Court or a board, neither the employers nor the employees in the industry the subject of such proceedings shall alter the conditions of employment with respect to wages or hours, or the prices for piece work, unless with the permission of the Court or board: 15

Provided that nothing in this section shall affect the provisions of this Act with regard to an authorised strike or authorised lock-out. 20

Employees of the Crown.

**80.** Employees of the Crown shall be paid rates and prices not less than those prescribed by any award or common rule to be paid to workers of the same industrial class who are not employees of the Crown; or if there be no such awards or common rule, not less than the rates and prices prescribed by awards under the authority of the Commonwealth Conciliation and Arbitration Act, 1904-1914, or of any Act amending the same and operating within the State. This provision shall apply at all times, and notwithstanding the fact that rates may previously have been specially fixed by the Court or a board for any of such first-mentioned employees. 25 30 35

The Court shall not fix rates and prices for employees of the Crown lower than those fixed for persons of the same same

same industrial class who are not employees of the Crown notwithstanding the fact that the employment of such first-mentioned employees is permanent or that additional privileges are ordinarily allowed to such 5 employees.

The provisions of this section may be enforced in any industry in the same manner as if they were the provisions of an award.

**81.** Evidence of any award, order, proclamation, 10 notification, rule, or regulation made under the authority of this Act or any of the repealed Acts, may be given by the production of any document purporting to be a copy thereof and purporting to be printed by the Government Printer or by the authority of the Minister. Evidence.

**82.** The amount of any penalty recovered under this 15 Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund. Penalties to be paid into Consolidated Revenue.

**83.** Whosoever, before a board or the Court, wilfully 20 makes on oath any false statement knowing the same to be false shall be guilty of perjury. False swearing.

**84.** The Governor may, subject to the Public 25 Service Act, 1902, appoint an industrial registrar, who shall have the prescribed powers and duties, and in the absence of the registrar may appoint an acting registrar, Industrial Registrar.

**85.** The Governor may appoint industrial magis- 30 trates, who shall have the qualifications of a police magistrate, and who shall throughout the State have the jurisdiction and powers conferred by this Act on an industrial magistrate, and in the exercise of such juris- diction may do alone whatever might be done by two or more justices sitting in petty sessions. Industrial Magistrate.

**86.** (1) The Governor may, and on the recommenda- 35 tion of the Court shall appoint inspectors, who shall have the powers and duties prescribed. Inspectors.

Any such inspector may exercise the following powers and perform the following duties in respect of an industry as to which an award or an industrial agreement is in force :—

- 40 (a) He may at any reasonable times inspect any premises of any employer upon which any such industry as aforesaid is carried on, and any work being done therein. (b)

- (b) He may at any reasonable times require the employer in such industry to produce for his examination, and may examine, any time-sheets and pay-sheets of the employees in such industry. 5
- (c) He may at any reasonable times examine any employee in such industry as to the prices for piece-work and the rate of wages paid to him, and as to his hours of work as such employee.
- (d) He may, on obtaining the authority of the 10 Minister, institute proceedings for a penalty under section fifty-three.
- (e) He may question any employee at the place of his employment out of hearing of any employer, foreman, deputy, manager, or other superior 15 officer.

An inspector shall report to the Minister all breaches of this Act, or of an award or industrial agreement, or any other matter which in his opinion affects the welfare of employees. 20

(2) No inspector shall have any authority under this Act to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein. 25

(3) If any person obstructs any inspector in the exercise of his powers under this Act, or fails when duly required as aforesaid to produce any time-sheets or pay-sheets, he shall be liable to a penalty not exceeding *ten* pounds. 30

Honorary  
inspector.

**87.** For the purpose of giving effect to the provisions of this Act the Court may from time to time appoint, with power of revocation, any person or persons as honorary inspectors under this Act for any period not exceeding one year, and any persons so appointed shall be entitled to 35 exercise the powers conferred upon inspectors by this Act during the period of his inspectorship.

No stamp  
duty payable.

**88.** No stamp duty shall be payable on or in respect of any certificate, agreement, order, statutory declaration, power of attorney, or instrument, executed in 40 pursuance of or to give effect to the provisions of this Act. **89.**

**89.** Evidence of any proclamation, notification, rule, <sup>Evidence.</sup> or regulation required by this Act to be proclaimed, notified, or published in the Gazette may be given by the production of a copy of the Gazette containing or  
5 purporting to contain such proclamation, notification, rule, or regulation.

**90.** (1) Rules made under this Act, on being <sup>Rules of Court.</sup> approved by the Governor and published in the Gazette, shall, if not disallowed as hereinafter provided, and if  
10 not repugnant to this Act, have the force of law.

(2) All such rules on being gazetted shall be laid before both Houses of Parliament within fourteen days if Parliament is then sitting, and, if not sitting, then within fourteen days after the next meeting of  
15 Parliament. But if either House of Parliament passes a resolution of which notice has been given at any time within fifteen sittings days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.